

# HOUSE BILL No. 1721

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** Numerous provisions throughout the Indiana Code.

**Synopsis:** Duties of the secretary of state. Assigns the following duties of the secretary of state as follows: (1) Duties relating to administration of Indiana election law are assigned to the Indiana election commission or the election division. (2) Duties relating to technology enhancement, business organization laws, and trademark registration are assigned to the department of commerce. (3) Duties relating to motor club car plans and designating a resident agent for service of process are assigned to the attorney general. (4) Duties relating to securities regulation laws, collection agencies, and the uniform commercial code are assigned to the department of financial institutions. Repeals obsolete statutes. Makes other conforming changes.

**Effective:** July 1, 1999; January 1, 2000.

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## Crooks

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January 26, 1999, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1721

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 2-2.1-3-2 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) Not later  
3       than seven (7) calendar days following the first session day in January  
4       of each year every member of the general assembly shall file with the  
5       principal clerk of the house or secretary of the senate, respectively, a  
6       written statement of the member's or candidate's economic interests for  
7       the preceding calendar year listing the following:

8               (1) The name of the member's or candidate's employer and the  
9               employer of the member's or candidate's spouse and the nature of  
10              the employer's business. The house of representatives and senate  
11              need not be listed as an employer.

12             (2) The name of any sole proprietorship owned or professional  
13             practice operated by the member or candidate or the member's or  
14             candidate's spouse and the nature of the business.

15             (3) The name of any partnership of which the member or  
16             candidate or the member's or candidate's spouse is a member and  
17             the nature of the partnership's business.

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IN 1721—LS 7928/DI 75+



(4) The name of any corporation of which the member or candidate or the member's or candidate's spouse is an officer or director and the nature of the corporation's business. Churches need not be listed.

(5) The name of any corporation in which the member or candidate or the member's or candidate's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars (\$10,000). No time or demand deposit in a financial institution or insurance policy need be listed.

(6) The name of any state agency or the supreme court of Indiana which licenses or regulates the following:

(A) The member's or candidate's or the member's or candidate's spouse's profession or occupation.

(B) Any proprietorship, partnership, corporation, or limited liability company listed under subdivision (2), (3), or (4) and the nature of the licensure or regulation.

The requirement to file certain reports with the ~~secretary of state~~ or to register with the department of state revenue as a retail merchant, manufacturer, or wholesaler shall not be considered as licensure or regulation.

(7) The name of any person whom the member or candidate knows to have been a lobbyist in the previous calendar year and knows to have purchased any of the following:

(A) From the member or candidate, the member's or candidate's sole proprietorship, or the member's or candidate's family business, goods or services for which the lobbyist paid in excess of one hundred dollars (\$100).

(B) From the member's or candidate's partner, goods or services for which the lobbyist paid in excess of one thousand dollars (\$1,000).

(8) The name of any person or entity from whom the member or candidate received the following:

(A) Any gift of cash from a lobbyist.

(B) Any single gift other than cash having a fair market value in excess of one hundred dollars (\$100).

However, a contribution made by a lobbyist to a charitable organization (as defined in Section 501(c) of the Internal Revenue Code) in connection with a social or sports event attended by legislators need not be listed by a member of the general assembly unless the contribution is made in the name of the legislator.

(C) Any gifts other than cash having a fair market value in the

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aggregate in excess of two hundred fifty dollars (\$250). Campaign contributions need not be listed. Gifts from a spouse or close relative need not be listed unless the donor has a substantial economic interest in a legislative matter.

(9) The name of any lobbyist who is:

(A) a member of a partnership or limited liability company;

(B) an officer or a director of a corporation; or

(C) a manager of a limited liability company;

of which the member of or candidate for the general assembly is a partner, an officer, a director, a member, or an employee, and a description of the legislative matters which are the object of the lobbyist's activity.

(10) The name of any person or entity on whose behalf the member or candidate has appeared before, contacted, or transacted business with any state agency or official thereof, the name of the state agency, the nature of the appearance, contact, or transaction, and the cause number, if any. This requirement does not apply when the services are rendered without compensation.

(11) The name of any limited liability company of which the member of the general assembly, the candidate, or the member's or candidate's individual spouse has an interest.

(b) Before any person, who is not a member of the general assembly files the person's declaration of candidacy, declaration of intent to be a write-in candidate, or petition of nomination for office or is selected as a candidate for the office under IC 3-13-1 or IC 3-13-2, the person shall file with the clerk of the house or secretary of the senate, respectively, the same written statement of economic interests for the preceding calendar year that this section requires members of the general assembly to file.

(c) Any member of or candidate for the general assembly may file an amended statement upon discovery of additional information required to be reported.

SECTION 2. IC 2-5-1.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. (a) The Indiana code revision commission is established. The commission shall function as an advisory body to the legislative council. In that capacity, the commission shall:

(1) assist the council in supervising the compilation, computerization, indexing, and printing of the Indiana Code;

(2) assist the council in developing standards for the codification and revision of statutes to make those statutes clear, concise, and easy to interpret and to apply;

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(3) assist the council, as required by IC 4-22-8-11, with the publication of the Indiana Register and in the compilation, computerization, indexing, and printing of the Indiana Administrative Code;

(4) assist the council, as required by IC 4-22-2-42, in developing and revising standards, techniques, format, and numbering system to be used in drafting rules for promulgation;

(5) assist the council in developing and revising standards, techniques, and format to be used when preparing legislation for consideration by the Indiana general assembly; and

(6) assist the council with any other related tasks assigned to the commission by the council.

(b) The commission consists of the following members:

(1) Four (4) members of the house of representatives, not more than two (2) of whom are members of the same political party, to be appointed by the speaker of the house of representatives.

(2) Four (4) members of the senate, not more than two (2) of whom are members of the same political party, to be appointed by the president pro tempore of the senate.

(3) The chief justice of Indiana or his designee.

(4) The chief judge of the Indiana court of appeals or his designee.

(5) The Indiana attorney general or his designee.

(6) An attorney admitted to the practice of law before the Indiana supreme court selected by the chairman of the council.

(7) A present or former professor of law selected by the chairman of the council.

~~(8) The Indiana secretary of state or his designee.~~

~~(9) (8)~~ An individual appointed by the governor.

Appointive members of the commission shall be appointed to serve a term of two (2) years or until their successors are appointed and qualified.

(c) The chairman of the commission shall be selected by the commission from among its legislative members.

(d) Commission members serve without compensation other than per diem and travel allowance as authorized for legislative study committees.

(e) The commission shall meet as often as is necessary to properly perform its duties.

(f) The council may direct the legislative services agency to provide such clerical, research, and administrative personnel and other assistance as the council considers necessary to enable the commission

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1 to properly perform its duties.

2 (g) Subject to the authorization of the council, the expenses incurred  
3 by the commission in performing its duties shall be paid from the funds  
4 appropriated to the council.

5 SECTION 3. IC 3-6-4.1-6 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) The  
7 governor shall appoint one (1) of the members of the commission to be  
8 the chair and one (1) of the members of the commission to be the vice  
9 chair of the commission. ~~After June 30, 1997, the chair of the~~  
10 ~~commission must be a member of the same political party as the~~  
11 ~~individual who is the secretary of state.~~ The vice chair and the chair  
12 may not be affiliated with the same political party.

13 (b) The individuals appointed as chair and vice chair serve in their  
14 respective positions until each individual's term as a member of the  
15 commission expires.

16 SECTION 4. IC 3-6-4.2-1 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. The election  
18 division is established. ~~within the office of the secretary of state.~~

19 SECTION 5. IC 3-6-4.2-2 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) The  
21 ~~secretary of state election division~~ shall perform all ministerial duties  
22 related to the administration of elections by the state.

23 (b) The election division shall assist the commission ~~and the~~  
24 ~~secretary of state~~ in the administration of this title.

25 SECTION 6. IC 3-6-4.2-8 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) When a  
27 vacancy in a co-director position occurs, the ~~secretary of state~~  
28 ~~governor~~ shall notify ~~the governor and~~ the state chairman of the  
29 political party of which the individual vacating the position is a  
30 member.

31 (b) The state chairman may submit to the governor in writing, within  
32 thirty (30) days after notice of the vacancy, the names of two (2)  
33 individuals to fill the vacancy. If the state chairman submits the names  
34 of two (2) individuals within the thirty (30) day period, the governor  
35 shall appoint one (1) of the two (2) individuals to fill the vacancy. If the  
36 state chairman fails to submit the names of two (2) individuals within  
37 the thirty (30) day period, the governor shall, within another ten (10)  
38 days, appoint an individual of the same political party as the state  
39 chairman to fill the vacancy.

40 (c) If a state chairman fails to submit in writing the name of a  
41 qualified successor within thirty (30) days after the state chairman is  
42 notified ~~by the secretary of state~~ of a vacancy, the governor shall:



(1) appoint a member of the political party of the state chairman to fill the vacancy; and

(2) notify the state chairman of the selection.

(d) The state chairman may disapprove the selection by notifying the governor within seven (7) days after receiving notice of the governor's appointment. If the state chairman disapproves the selection within the seven (7) day period, the governor shall make another appointment under subsection (b) which is subject to disapproval of the state chairman under this subsection. If the state chairman does not disapprove the appointment within the seven (7) day period, the individual appointed by the governor shall be employed as the co-director.

SECTION 7. IC 3-6-4.2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. The ~~secretary of state~~ **election division** shall submit biennial budget estimates for the commission and the election division in the manner and form required by law. Funds shall be expended only in the manner and form required by law.

SECTION 8. IC 3-6-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. If a person desires to act as a watcher for a newspaper, news service, radio station, or television station in more than one (1) county in Indiana, the person must obtain a watcher identification card from the election division. The ~~secretary of state~~ **commission** may adopt rules under IC 4-22-2 to implement this section.

SECTION 9. IC 3-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. A declaration of candidacy for:

- (1) a federal office;
- (2) a state office;
- (3) a legislative office; or
- (4) the local office of:

(A) judge of a circuit, superior, probate, county, or small claims court; or

(B) prosecuting attorney of a judicial circuit;

shall be filed with the ~~secretary of state~~ **election division**.

SECTION 10. IC 3-8-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. A petition required by section 8 of this chapter must request that the name of the candidate be placed on the ballot at the primary election. In order for the ~~secretary of state~~ **election division** to consider a petition valid, the circuit court clerk or board of registration in the county where a petitioner is



1 registered must certify that each petitioner is a voter of the county. The  
 2 certification must accompany and be part of the petition. If a county is  
 3 part of more than one (1) congressional district, the certificate must  
 4 indicate the number of petitioners from that county who reside in each  
 5 congressional district.

6 SECTION 11. IC 3-8-2-14 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. (a) All  
 8 questions concerning the validity of a declaration filed with the  
 9 **secretary of state election division** shall be referred to and determined  
 10 by the commission in accordance with the deadline prescribed by  
 11 section 18 of this chapter.

12 (b) All questions concerning the validity of a declaration of  
 13 candidacy filed with a circuit court clerk shall be referred to and  
 14 determined by the county election board not later than the fifty-fourth  
 15 day before the primary election.

16 (c) A question concerning the validity of a declaration of intent to  
 17 be a write-in candidate shall be determined by the commission or the  
 18 county election board not later than noon seven (7) days before election  
 19 day.

20 SECTION 12. IC 3-8-3-1 IS AMENDED TO READ AS FOLLOWS  
 21 [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) This section applies to  
 22 candidates affiliated with a major political party of the state.

23 (b) A candidate of a major political party for nomination for the  
 24 office of President of the United States during the period under  
 25 IC 3-8-2-4 in which a declaration of candidacy may be filed for the  
 26 primary election held in the year in which a President is to be elected,  
 27 shall file with the election division a request that the candidate's name  
 28 be placed upon the ballot under the label of the political party whose  
 29 nomination the candidate is seeking.

30 ~~(c) A candidate described under subsection (b) may, in the~~  
 31 ~~alternative, file the request with the secretary of state. If the secretary~~  
 32 ~~of state receives a request under this subsection, the secretary shall~~  
 33 ~~immediately forward the request to the election division.~~

34 ~~(d) Notwithstanding subsection (b), a request filed on the final day~~  
 35 ~~permitted under subsection (b) must be filed with the secretary of state.~~  
 36 ~~For all other purposes under this title, a request filed with the secretary~~  
 37 ~~of state is subject to the same procedures and requirements as a request~~  
 38 ~~filed with the election division.~~

39 SECTION 13. IC 3-8-6-12 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. (a) A petition  
 41 of nomination for an office filed under section 10 of this chapter must  
 42 be filed with and certified by the person with whom a declaration of

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1 candidacy must be filed under IC 3-8-2.

2 (b) The petition of nomination must be accompanied by the  
3 following:

4 (1) Each candidate's written consent to become a candidate.

5 (2) A statement that the candidate:

6 (A) is aware of the provisions of IC 3-9 regarding campaign  
7 finance and the reporting of campaign contributions and  
8 expenditures; and

9 (B) agrees to comply with the provisions of IC 3-9.

10 The candidate must separately sign the statement required by this  
11 subdivision.

12 (3) If the candidate is subject to IC 3-9-1-5, a statement by the  
13 candidate that the candidate has filed a campaign finance  
14 statement of organization under IC 3-9-1-5 or is aware that the  
15 candidate may be required to file a campaign finance statement of  
16 organization not later than noon seven (7) days after the final date  
17 for filing a petition for nomination under section 10 of this  
18 chapter.

19 (4) A statement that if the individual is a candidate for a school  
20 board office, the candidate is aware of the requirement to file a  
21 campaign finance statement of organization under IC 3-9 after the  
22 first of either of the following occurs:

23 (A) The candidate receives more than five hundred dollars  
24 (\$500) in contributions as a school board candidate.

25 (B) The candidate makes more than five hundred dollars  
26 (\$500) in expenditures as a school board candidate.

27 (5) A statement indicating whether or not each candidate:

28 (A) has been a candidate for state or local office in a previous  
29 primary or general election; and

30 (B) has filed all reports required by IC 3-9-5-10 for all  
31 previous candidacies.

32 (6) A statement that each candidate is legally qualified to hold the  
33 office that the candidate seeks, including any applicable residency  
34 requirements and restrictions on service due to a criminal  
35 conviction.

36 (7) If the petition is filed with the **secretary of state election**  
37 **division** for an office not elected by the electorate of the whole  
38 state, a statement signed by the circuit court clerk of each county  
39 in the election district of the office sought by the individual.

40 (c) The statement required under subsection (b)(7) must:

41 (1) be certified by each circuit court clerk; and

42 (2) indicate the number of votes cast for secretary of state:

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(A) at the last election for secretary of state; and

(B) in the part of the county included in the election district of the office sought by the individual filing the petition.

(d) The **secretary of state election division** shall, by noon August 20, certify each petition of nomination filed in the **secretary of state's office election division** to the appropriate county.

(e) The commission shall provide that the form of a petition of nomination includes the following information near the separate signature required by subsection (b)(2):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

SECTION 14. IC 3-8-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. (a) A person may not be selected as a candidate by petition of nomination without giving written consent and having it filed with the public official with whom certificates and petitions of nomination are required to be filed.

(b) Each candidate nominated by petition of nomination must satisfy all statutory eligibility requirements for the office for which the candidate is nominated, including the filing of statements of economic interest.

(c) All questions concerning the validity of a petition of nomination filed with the **secretary of state election division** shall be referred to and determined by the commission.

(d) All questions concerning the validity of a petition of nomination filed with a circuit court clerk shall be referred to and determined by the county election board.

(e) This subsection does not apply to a petition of nomination for election to a school board office subject to IC 3-8-2-14. The commission or a county election board shall rule on the validity of the petition of nomination not later than noon sixty (60) days before the date on which the general or municipal election will be held for the office.

SECTION 15. IC 3-8-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. Within ten (10) days after receipt of the candidate and delegate lists from each circuit court clerk under section 5 of this chapter, the **secretary of state election division** shall furnish to the state chairman of each political party in the state whose nominee received at least ten percent (10%) of the total vote cast for secretary of state at the last election a complete **certified** list ~~certified under the secretary's hand and seal~~; of:

(1) all candidates nominated and delegates elected as certified by



the clerks under section 5 of this chapter; and

(2) all candidates shown to be nominated by the canvass of the ~~secretary of state election division~~ under IC 3-10-1-34.

Each list must include the address of each candidate and delegate. The delegate lists shall be certified in duplicate, separate from the candidate lists.

SECTION 16. IC 3-8-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) Either the chairman and secretary of a state convention or the state chairman and state secretary of the political party holding the state convention shall certify each candidate nominated at the convention to the ~~secretary of state election division~~ by noon August 1 before the general election.

(b) The certification must state the following:

(1) Whether each candidate nominated by the convention has complied with IC 3-9-1-5 by filing a campaign finance statement of organization.

(2) That the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(c) The commission shall prescribe the form of the certification of nomination for the offices. The commission shall provide that the form of the certification of nomination include the following information near the separate signature required by subsection (b)(2):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

SECTION 17. IC 3-12-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. Upon receipt of the certified statements from the circuit court clerks under section 6 of this chapter and not later than noon of the last Tuesday in November, the election division shall tabulate the number of votes cast for each candidate for:

(1) presidential electors;

(2) a state office other than governor and lieutenant governor; and

(3) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

Immediately following the election division's tabulation, the ~~secretary of state election division~~ shall certify to the governor the candidate

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receiving the highest number of votes for each office.

SECTION 18. IC 3-12-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) Upon receipt of the certified statements from the circuit court clerks under section 6 of this chapter, the election division shall:

(1) compare and estimate the number of votes cast for each candidate for United States Senator and United States Representative; and

(2) prepare a certificate ~~for the secretary of state to certify~~ **certifying** to the governor the candidate receiving the highest number of votes for each office.

(b) The ~~secretary of state election division~~ shall promptly ~~execute~~ **file** the certificate prepared under subsection (a) ~~and file the certificate~~ with the governor.

SECTION 19. IC 3-12-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. (a) Upon receipt of the certified statements under section 11 of this chapter, the election division shall:

(1) immediately total all certified statements from each senate and house district; and

(2) promptly prepare and transmit to the candidate receiving the highest number of votes for each legislative office a certificate of the candidate's election.

(b) The ~~secretary of state~~ **co-directors** shall sign the certificates prepared by the election division under subsection (a). However, if two (2) or more candidates receive the highest and an equal number of votes according to the tabulation prepared by the election division, the ~~secretary of state election division~~ shall immediately certify the tie vote to the governor.

SECTION 20. IC 3-12-10-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2.1. (a) Except as provided in this section, the ~~secretary of state~~ **lieutenant governor** and the designee of the state chairman of each of the major political parties of the state shall serve as members of the state recount commission.

(b) Except as provided in this section, the ~~secretary of state~~ **lieutenant governor** shall serve as the chair of the state recount commission.

(c) If an election to the office of ~~secretary of state~~ **governor or lieutenant governor** is the subject of a petition filed under IC 3-12-11, final determination of all petitions filed under IC 3-12-11 relating to that election must be made before January 1 after the election.

(d) The ~~secretary of state~~ **lieutenant governor** may not serve on the



1 commission if the ~~secretary of state~~ **governor or lieutenant governor**  
 2 is:

3 (1) a petitioner under IC 3-12-11; or

4 (2) named as a candidate in a petition under IC 3-12-11;

5 until the commission makes a final determination under IC 3-12-11 of  
 6 all related petitions in which the ~~secretary of state~~ **governor or**  
 7 **lieutenant governor** is a petitioner or is named.

8 (e) If the ~~secretary of state~~ **lieutenant governor** may not serve on  
 9 the commission under subsection (d), the state chairman of the same  
 10 major political party as the ~~secretary of state~~ **lieutenant governor** shall  
 11 designate another individual to serve as a member and chair of the  
 12 commission. The other individual must have voted in the most recent  
 13 primary election of the political party of the state chairman making the  
 14 appointment. The individual serves until the commission issues its final  
 15 determination of all petitions relating to the election that are described  
 16 in subsection (d). The ~~secretary of state~~ **lieutenant governor** shall then  
 17 resume as a member and the chairman of the state recount commission.

18 (f) An individual who serves on the state recount commission as  
 19 ~~secretary of state~~ **lieutenant governor** ceases to be a member of the  
 20 commission when the individual ceases to be ~~secretary of state~~.  
 21 **lieutenant governor**.

22 SECTION 21. IC 3-12-10-3 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) Each  
 24 member of the state recount commission other than the ~~secretary of~~  
 25 **state lieutenant governor** is entitled to the minimum salary per diem  
 26 provided by IC 4-10-11-2.1(b).

27 (b) Each member of the state recount commission is entitled to  
 28 reimbursement for traveling expenses and other expenses actually  
 29 incurred in connection with the member's duties, as provided in the  
 30 state travel policies and procedures established by the department of  
 31 administration and approved by the state budget agency.

32 SECTION 22. IC 3-12-10-10 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. The ~~secretary~~  
 34 **of state chair of the state recount commission** may assign any of the  
 35 election division's staff and facilities to the state recount commission  
 36 to carry out the commission's responsibilities.

37 SECTION 23. IC 3-12-11-9 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. Upon the filing  
 39 of a petition for a recount or contest with the election division, the  
 40 ~~secretary of state~~ **chair of the state recount commission** shall issue a  
 41 notice of the filing and pendency of the petition to each opposing  
 42 candidate and deliver the notice to the state police department. The

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1 state police department shall immediately serve the notice upon each  
 2 opposing candidate in person or by leaving a copy at the last and usual  
 3 place of residence. The state police department shall make immediate  
 4 return of the service.

5 SECTION 24. IC 3-12-11-20 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 20. (a) On the day  
 7 following the completion of a recount for the election to the offices of  
 8 governor and lieutenant governor, the election division shall prepare  
 9 two (2) certified statements ~~for the secretary of state under the secretary~~  
 10 ~~of state's seal~~ showing the total number of votes that each candidate  
 11 received.

12 (b) The ~~secretary of state~~ **election division** shall transmit the  
 13 statements to:

- 14 (1) the speaker of the house of representatives; and
- 15 (2) the president pro tempore of the senate;

16 before the date specified in Article 5, Section 9 of the Constitution of  
 17 the State of Indiana for the beginning of the term of the governor.

18 SECTION 25. IC 3-12-11-21 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 21. (a) A recount  
 20 for election to a legislative office shall be completed before December  
 21 20 after the election.

22 (b) Before December 20 after the election, the election division shall  
 23 prepare two (2) certified statements showing the total number of votes  
 24 that each candidate received. The election division shall transmit one  
 25 (1) statement to the candidate receiving the highest number of votes for  
 26 the office. Before December 20 after the election, the ~~secretary of state~~  
 27 **election division** shall deliver the other statement to the presiding  
 28 officer of the house in which the successful candidate is to be seated.

29 (c) The statement shall be referred by the presiding officer for such  
 30 action as that house considers appropriate.

31 SECTION 26. IC 3-12-12-23 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 23. (a) This  
 33 section applies to a recount of:

- 34 (1) a public question concerning the ratification of a state  
 35 constitutional amendment or the retention of a justice of the  
 36 Indiana supreme court or judge of the Indiana court of appeals; or
- 37 (2) another public question voted on by the electorate of the entire  
 38 state.

39 (b) A circuit court clerk shall immediately transmit a certificate  
 40 prepared under section 22 of this chapter to the election division.

41 (c) Upon tabulation of the returns under this section by the election  
 42 division, the ~~secretary of state~~ **election division** shall issue a certificate

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1 declaring the public question approved or rejected.

2 SECTION 27. IC 3-13-3-1 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A vacancy  
4 that occurs, other than by resignation, in the United States Senate shall  
5 be certified to the governor by the ~~secretary of state~~ **election division**.

6 (b) The governor shall immediately fill a vacancy in the United  
7 States Senate by appointing a person possessing the qualifications  
8 required under Article 1, Section 3, Clause 3 of the Constitution of the  
9 United States. The person appointed holds office until the next general  
10 election, when the vacancy shall be filled by the election of a Senator  
11 in a special election to hold office for the unexpired term.

12 (c) If a vacancy in the United States Senate occurs after the last day  
13 on which notice of the special election can be published under  
14 IC 3-10-8-4, the person appointed under subsection (b) holds office  
15 until the vacancy is filled in a special election held at the time of the  
16 next general election for which notice can be published under  
17 IC 3-10-8-4.

18 SECTION 28. IC 3-13-5-6 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. The state  
20 chairman shall certify the name of the person selected under section 1  
21 of this chapter to the president pro tempore of the senate or the speaker  
22 of the house of representatives, as appropriate, who shall acknowledge  
23 receipt of the certification, submit a copy of the certificate to be  
24 included in the journal of the house or senate:

25 (1) of the day when the individual is seated; or

26 (2) if the certificate is received after the adjournment sine die of  
27 the general assembly, of the first day that the chamber is in  
28 session following receipt of the certificate;

29 and immediately forward the certificate to the ~~secretary of state~~  
30 **election division**.

31 SECTION 29. IC 3-13-5-7 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. The ~~secretary~~  
33 ~~of state~~ **election division** shall, within fourteen (14) days after receipt  
34 of the certification under section 6 of this chapter, certify the person  
35 selected to fill the vacated seat.

36 SECTION 30. IC 3-13-5-9 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. If a house of  
38 the general assembly determines that a person should not be seated as  
39 a member of that house because that person was ineligible to hold the  
40 seat for which a certificate of election has been issued by the ~~secretary~~  
41 ~~of state~~ **election division**, the seat shall be filled under this chapter. A  
42 person selected to fill a vacant seat under this section must meet all



requirements set forth in Article 4, Section 7 of the Constitution of the State of Indiana as of the date of the general election for which the ineligible person who was not seated received a certificate of election.

SECTION 31. IC 4-1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

- (1) Department of state revenue.
- (2) Department of workforce development.
- (3) The programs administered by:
  - (A) the division of family and children;
  - (B) the division of mental health;
  - (C) the division of disability, aging, and rehabilitative services; and
  - (D) the office of Medicaid policy and planning; of the office of the secretary of family and social services.
- (4) Auditor of state.
- (5) State personnel department.
- (6) ~~Secretary of state;~~ **The department of financial institutions,** with respect to the registration of broker-dealers, agents, and investment advisors.
- (7) The legislative ethics commission, with respect to the registration of lobbyists.
- (8) Indiana department of administration, with respect to bidders on contracts.
- (9) Indiana department of transportation, with respect to bidders on contracts.
- (10) Health professions bureau.
- (11) Indiana professional licensing agency.
- (12) Indiana department of insurance, with respect to licensing of insurance agents.
- (13) A pension fund administered by the board of trustees of the public employees' retirement fund.
- (14) The Indiana state teachers' retirement fund.
- (15) The state police benefit system.
- (b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:
  - (1) That an individual include the individual's Social Security





number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.

(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

SECTION 32. IC 4-3-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. The governor may request, on behalf of the state, the establishment of a private not-for-profit corporation named the corporation for Indiana's international future. The corporation may not commence operations or perform the functions listed in section 4 of this chapter until:

(1) articles of incorporation for the corporation have been filed with, and a certificate of incorporation has been issued by, the ~~secretary of state~~; **department of commerce**;

(2) the corporation has conducted a public hearing for the purpose of giving all interested parties an opportunity to review and comment upon the articles of incorporation, bylaws, and proposed methods of operation of the corporation; and

(3) the governor has certified to the ~~secretary of state~~ **department of commerce** that all requirements set forth in this chapter for the corporation have been satisfied.

Notice of the hearing under subdivision (2) must be given at least fourteen (14) days before the hearing in accordance with



1 IC 5-14-1.5-5(b).

2 SECTION 33. IC 4-3-17-3 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. The governor  
4 may request, on behalf of the state, the establishment of a private  
5 not-for-profit corporation named the Hoosier alliance against drugs.  
6 The corporation may not commence operations or perform the  
7 functions listed in section 4 of this chapter until:

- 8 (1) articles of incorporation for the corporation have been filed  
9 with, and a certificate of incorporation has been issued by, the  
10 ~~secretary of state;~~ **department of commerce;**  
11 (2) the corporation has conducted a public hearing for the purpose  
12 of giving all interested parties an opportunity to review and  
13 comment upon the articles of incorporation, bylaws, and proposed  
14 methods of operation of the corporation; and  
15 (3) the governor has certified to the ~~secretary of state~~ **department**  
16 **of commerce** that all requirements set forth in this chapter for the  
17 corporation have been satisfied.

18 Notice of the hearing under subdivision (2) must be given at least  
19 fourteen (14) days before the hearing in accordance with  
20 IC 5-14-1.5-5(b).

21 SECTION 34. IC 4-3-17-7 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. The  
23 certification by the governor under section 3 of this chapter remains in  
24 effect until:

- 25 (1) the governor revokes the certification in writing and transmits  
26 a copy of the revocation to the president of the corporation and to  
27 the ~~secretary of state;~~ **department of commerce;** or  
28 (2) the general assembly provides by law for termination of the  
29 designation.

30 SECTION 35. IC 4-4-19-3 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. The department  
32 shall devise a distinctive trademark and register it with the ~~secretary of~~  
33 **state department** under IC 24-2-1. The trademark must indicate in  
34 some way that the product to which it is affixed is substantially  
35 produced or assembled in Indiana.

36 SECTION 36. IC 4-5-1-2 IS AMENDED TO READ AS FOLLOWS  
37 [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) The secretary of state  
38 shall keep and preserve the following:

- 39 (1) The enrolled copy of the Constitution of the state.  
40 (2) The manuscripts containing the enrolled acts and joint  
41 resolutions of the general assembly.  
42 (3) All the official bonds of state officers except the secretary of



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1 state's bond.

2 ~~(4) All written contracts to which the state is a party, unless~~  
 3 ~~required to be deposited elsewhere.~~

4 ~~(5)~~ (4) Any rule or other agency statement that is filed under  
 5 IC 4-22-2.

6 (b) All documents described in subsection (a)(1), (a)(2), or ~~(a)(5)~~  
 7 (a)(4) may be transferred by the secretary of state to the commission on  
 8 public records for safekeeping, and the commission shall receive and  
 9 safely preserve them when transferred. The secretary of state and the  
 10 commission on public records shall establish an indexing system so  
 11 that the secretary of state, an agency, or the commission on public  
 12 records can comply with a request under IC 5-14-3 to inspect or copy  
 13 a transferred document described in subsection ~~(a)(5)~~; (a)(4) including  
 14 the full text of a matter incorporated by reference into a document  
 15 described in subsection ~~(a)(5)~~; (a)(4). The indexing system must at  
 16 least identify transferred documents by the following:

17 (1) Indiana Administrative Code citation.

18 (2) Indiana Register document control number or volume and  
 19 page number.

20 (3) Year of adoption.

21 (4) General subject matter.

22 (c) Regardless of whether a document described in subsection (a)(1)  
 23 or (a)(2) is transferred to the commission on public records under  
 24 subsection (b), when deemed expedient or necessary for the  
 25 preservation of the documents, the secretary of state may copy the  
 26 documents by any micrographic technique, and the micrographic  
 27 copies shall be stored in a place other than in the state capitol building  
 28 or the Indiana state library.

29 (d) The secretary of state may copy in micrographic form the  
 30 complete contents of each rule that is filed with the secretary of state's  
 31 office under IC 4-22-2. Both the rule and the full text of matters  
 32 incorporated by reference into the rule may be copied.

33 (e) Micrographic copies prepared under subsection (d) must  
 34 conform with the following:

35 (1) The standards developed by the supreme court and the  
 36 oversight commission on public records under IC 5-15-5.1-8.

37 (2) The standards developed in an agreement between the  
 38 secretary of state, the publisher of the Indiana Register, the  
 39 governor, the attorney general, the Indiana library and historical  
 40 department, and the commission on public records.

41 (f) The secretary of state may micrographically copy documents  
 42 under subsection (d):

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(1) in the micrographic laboratory operated by the commission on public records under IC 5-15-5.1-8;

(2) with equipment and technology operated by the secretary of state; or

(3) through a contract for services procured under IC 5-22.

(g) When a document is micrographically copied under this section, the original documents shall never be destroyed even if microfilmed. However, if the secretary of state has the capacity to make certifiable copies from a micrographic media prepared under subsection (d), the secretary of state may return to its originating agency the full text of any matter that is incorporated by reference into a rule and micrographically copied.

SECTION 37. IC 4-5-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. The intelenet commission established under IC 5-21-2 or the state enhanced data access review committee under IC 5-21-6 and the ~~secretary of state~~ **department of commerce** shall establish policies and procedures for providing electronic and enhanced access under this chapter to create and maintain uniform policies and procedures for electronic and enhanced access by the public.

SECTION 38. IC 4-5-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. The ~~secretary of state~~ **department of commerce** may:

(1) establish; and

(2) modify;

at any time fees to provide electronic and enhanced access to information maintained by the ~~secretary of state~~ **department**.

SECTION 39. IC 4-5-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. IC 5-14-3 shall apply to all records of a private party to an agreement with the ~~secretary of state~~ **department of commerce** under this chapter which are directly related to the subject matter of the agreement.

SECTION 40. IC 4-5-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) The electronic and enhanced access fund is established to do the following:

(1) Improve and enhance the technology necessary and desirable to fulfill the duties of the ~~secretary of state~~ **department of commerce**.

(2) Improve service to customers of the ~~secretary of state~~ **department of commerce**.

(3) Provide the public electronic and other enhanced access to information maintained by the ~~secretary of state~~ **department of**



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**commerce** under IC 23 or IC 26.

(4) Allow the public to conduct business electronically with:

(A) the corporations division; and

(B) the uniform commercial code division;

of the ~~office of the secretary of state~~ **department of commerce**.

(5) Acquire and finance technology necessary or desirable to accomplish the purposes stated in subdivisions (1) through (4), including the purchase or lease of hardware, software, and other appropriate goods and services.

The ~~secretary of state~~ **department of commerce** may enter into one (1) or more agreements in furtherance of the purposes of this chapter.

(b) The fund consists solely of the following:

(1) Electronic and enhanced access fees established and collected by the ~~secretary of state~~ **department of commerce** under section 2 of this chapter.

(2) Other money specifically provided to the fund by law.

Fees collected by the ~~secretary of state~~ **department of commerce** under IC 23 or IC 26 may not be deposited into the fund.

(c) The ~~secretary of state~~ **department of commerce** shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) The ~~secretary of state~~ **department of commerce** may use money in the fund to pay expenses related to the purposes of the fund as set forth in section 5 of the chapter, to make payments under any agreement authorized by subsection (a) or authorized by law and directly relating to the purpose of the fund, and monies in the fund are continuously appropriated for the purposes set forth in this chapter.

(g) Money in the fund not currently needed to meet the obligations of the fund may be invested by either of the following:

(1) The treasurer of state in the same manner as other public funds may be invested.

(2) A financial institution designated by trust agreement with the ~~secretary of state~~ **department of commerce**.

Interest that accrues from investment of money in the fund shall be deposited into the fund.

SECTION 41. IC 4-10-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. Whenever there shall be a failure at any regular biennial session of the General Assembly to pass an appropriation bill or bills, making appropriations



for the objects and purposes hereinafter mentioned, it shall be lawful for the Governor ~~Secretary~~ and Treasurer of State, until appropriations shall be made by the Legislature, to direct the Auditor of State to draw ~~his~~ warrants on the State Treasury for such sums as they may, from time to time, decide to be necessary for such purposes respectively, not however exceeding the amounts appropriated for the same objects respectively by the last preceding appropriations which shall have been made by the General Assembly; and to pay such warrants as may, from time to time, be drawn and presented, a sufficient sum of money is hereby appropriated.

SECTION 42. IC 4-13.6-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. If an applicant for qualification is a foreign corporation, the applicant's application must be accompanied by a certificate of the ~~secretary of state~~ **department of commerce** that the applicant is authorized to do business in Indiana or a statement from the ~~secretary of state~~ **department of commerce** that the applicant is not required to register under relevant Indiana corporation laws.

SECTION 43. IC 4-20.5-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. Before the transfer and conveyance of the right, title, and possession of a memorial, a property, a building, or an appurtenance is consummated, the attorney general and the appropriate legal officer of the United States government must state in writing that all of the conditions necessary to the valid and conclusive transfer and conveyance of the memorial, or property, building, or appurtenance have been fully complied with. Upon the presentation of the written statements to the governor, the governor shall direct the ~~secretary of state~~ **department of administration** to cause to be executed a deed of conveyance to the United States government or agency of the United States government. The governor shall sign the deed and the secretary of state shall attest the deed with the great seal of the state.

SECTION 44. IC 4-22-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13. (a) Subject to subsections (b), (c), and (d), this chapter applies to the addition, amendment, or repeal of a rule in every rulemaking action.

(b) This chapter does not apply to the following agencies:

(1) Any military officer or board.

(2) Any state educational institution (as defined in IC 20-12-0.5-1).

(c) This chapter does not apply to a rulemaking action that results in any of the following rules:



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(1) A resolution or directive of any agency that relates solely to internal policy, internal agency organization, or internal procedure and does not have the effect of law.

(2) A restriction or traffic control determination of a purely local nature that:

(A) is ordered by the commissioner of the Indiana department of transportation;

(B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or IC 9-20-7; and

(C) applies only to one (1) or more particularly described intersections, highway portions, bridge causeways, or viaduct areas.

(3) A rule adopted by the ~~secretary of state~~ **department of financial institutions** under IC 26-1-9-408.

(4) An executive order or proclamation issued by the governor.

(d) Except as specifically set forth in IC 13-14-9, sections 24, 26, 27, and 29 of this chapter do not apply to rulemaking actions under IC 13-14-9.

SECTION 45. IC 4-32-9-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 21. Except where a qualified organization or its affiliate is having a convention or other annual meeting of its membership, a qualified organization may only conduct an allowable event in the county where the principal office of the qualified organization is located. The principal office of a qualified organization shall be determined as follows:

(1) Except as provided in subdivision (3), if a qualified organization is a corporation, the principal office shall be determined by the street address of the corporation's registered office on file with the ~~secretary of state~~ **department of commerce**.

(2) If a qualified organization is not a corporation, the principal office shall be determined by the street address of the organization on file with the Internal Revenue Service, the department, or county property tax assessment board of appeals for tax exempt purposes.

(3) If a qualified organization is affiliated with a parent organization that:

(A) is organized in Indiana; and

(B) has been in existence for at least five (5) years;

the principal office shall be determined by the principal place of business of the qualified organization.

SECTION 46. IC 5-8-3.5-1 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) Officers  
2 who resign shall give written notice of their resignation as follows:

3 (1) The governor and lieutenant governor shall notify the general  
4 assembly if it is in session. If the general assembly is not in  
5 session, they shall notify the ~~secretary of state~~ **election division**.

6 (2) Members of the general assembly shall notify the governor,  
7 and in addition:

8 (A) members of the senate shall notify the president pro  
9 tempore of the senate; and

10 (B) members of the house of representatives shall notify the  
11 speaker of the house.

12 (3) All officers commissioned by the governor shall notify the  
13 governor.

14 (4) All officers entitled to receive a certificate of election from the  
15 clerk of the circuit court under IC 3-12-4 or IC 3-12-5 or from a  
16 town clerk-treasurer under IC 3-10-7-34 shall notify the clerk of  
17 the circuit court or the town clerk-treasurer.

18 (5) All county officers shall notify the board or council having the  
19 power to appoint a successor or that would have the power if  
20 IC 3-13-7-1 did not apply.

21 (6) All city, town, or township officers shall notify the board,  
22 council, or individual having power to appoint a successor if  
23 IC 3-13-8-1, IC 3-13-9-1, or IC 3-13-10-1 did not apply.

24 (7) All other officers shall notify the officer, board, or court from  
25 whom they received their appointment.

26 (b) An officer, a board, or a court that receives notice of a  
27 resignation and does not have the power to fill the vacancy created by  
28 the resignation shall, within seventy-two (72) hours after receipt of the  
29 notice of resignation, give notice of the vacancy to the officer, board,  
30 or court that has the power to:

31 (1) fill the vacancy; or

32 (2) call a caucus for the purpose of filling the vacancy.

33 SECTION 47. IC 5-13-12-9 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. In addition to  
35 the investments authorized in section 7(d) of this chapter, the board  
36 may invest, reinvest, and exchange investments of the insurance fund  
37 in excess of the cash working balance in instruments of indebtedness  
38 of a credit corporation to which the ~~secretary of state~~ **department of**  
39 **commerce** has issued a certificate of election under IC 23-6-4-8.

40 SECTION 48. IC 5-22-16-4 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) An offeror  
42 that is a foreign corporation must be registered with the ~~secretary of~~

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1 ~~state department of commerce~~ to do business in Indiana in order to be  
2 considered responsible.

3 (b) The purchasing agent may award a contract to an offeror  
4 pending the offeror's registration with the ~~secretary of state~~  
5 **department of commerce**. If, in the judgment of the purchasing agent,  
6 the offeror has not registered within a reasonable period, the  
7 purchasing agent shall cancel the contract. An offeror has no cause of  
8 action based on the cancellation of a contract under this subsection.

9 SECTION 49. IC 6-2.5-10-2 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. The provisions  
11 of the gross income tax law (IC 6-2.1), which do not conflict with the  
12 provisions of this article and which deal with any of the following  
13 subjects, apply for the purposes of imposing, collecting, and  
14 administering the state gross retail and use taxes under this article:

- 15 (1) Filing of returns.
- 16 (2) Auditing of returns.
- 17 (3) Investigation of tax liability.
- 18 (4) Determination of tax liability.
- 19 (5) Notification of tax liability.
- 20 (6) Assessment of tax liability.
- 21 (7) Collection of tax liability.
- 22 (8) Examination of taxpayer's books and records.
- 23 (9) Legal proceedings.
- 24 (10) Court actions.
- 25 (11) Remedies.
- 26 (12) Privileges.
- 27 (13) Taxpayer and departmental relief.
- 28 (14) Statutes of limitations.
- 29 (15) Hearings.
- 30 (16) Refunds.
- 31 (17) Remittances.
- 32 (18) Imposition of penalties and interest.
- 33 (19) Maintenance of departmental records.
- 34 (20) Confidentiality of taxpayer's returns.
- 35 (21) Duties of ~~the secretary of state~~ and the treasurer of state.
- 36 (22) Administration.

37 SECTION 50. IC 8-1-2.8-17 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. A LEC that  
39 collects a surcharge under this chapter shall pay the amount collected  
40 for the surcharge on the terms and in the manner determined under  
41 section 21(2) of this chapter to a not-for-profit corporation formed  
42 under IC 23-7-1.1 and named "The Indiana Telephone Relay Access



1 Corporation For the Hearing and Speech Impaired". However, no  
 2 payments under this section may be made to the InTRAC until the  
 3 following occur:

4 (1) The InTRAC files with the commission the following:

5 (A) A certificate of existence issued by the ~~secretary of state~~  
 6 **department of commerce** that certifies that the InTRAC is in  
 7 existence under Indiana law.

8 (B) A certificate in which two (2) authorized officers of the  
 9 InTRAC certify that the corporation meets the requirements of  
 10 section 18 of this chapter.

11 (C) A document executed by an authorized officer of the  
 12 InTRAC in which the InTRAC agrees to meet the  
 13 requirements of sections 18 and 21 of this chapter.

14 (2) Copies of the certificates described in subdivision (1)(A) and  
 15 (1)(B) have been delivered to each LEC that collects the  
 16 surcharge required by this chapter.

17 SECTION 51. IC 8-1-13-5 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) The natural  
 19 persons executing the articles of incorporation shall be residents of the  
 20 territory in which the operations of the corporation are to be conducted  
 21 who are desirous of using electric energy to be furnished by the  
 22 corporation. The articles of incorporation shall be executed in as many  
 23 copies as there are counties, any part or parts of which are included in  
 24 the territory in which the operations of the corporation are to be  
 25 conducted and shall be acknowledged by the subscribers before an  
 26 officer authorized by the laws of this state to take acknowledgments of  
 27 deeds. When so acknowledged the articles of incorporation shall be  
 28 submitted to the commission together with a petition executed by one  
 29 (1) or more of the natural persons executing the said articles of  
 30 incorporation praying the commission to grant a certificate of public  
 31 convenience and necessity for the organization and operations of the  
 32 proposed corporation. Upon the filing of such articles and petition with  
 33 the commission, said commission shall set the said petition for public  
 34 hearing and shall give notice of the time and place of such hearing by  
 35 publication one (1) time in at least one (1) newspaper printed and  
 36 published in each of the counties in which the said corporation  
 37 proposes to carry on its operations, which publication shall be had at  
 38 least ten (10) days prior to the date set for such hearing, the cost of  
 39 such publications to be paid by the petitioners at the time of filing said  
 40 petition. Any interested person may appear at such hearing either in  
 41 person or by attorney and oppose the prayer of said petition. The  
 42 commission, after hearing the evidence introduced at said hearing, shall

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enter a finding either that the convenience and necessity of the public proposed to be served in the territory in which the operations of the corporation are to be conducted will or will not be served by the organizations and operations of the proposed corporation. If such finding be in the affirmative, the commission shall enter an order approving the organization of such corporation and the proposed articles of incorporation and shall attach a copy of said order to each copy of the said articles of incorporation. If the said finding be in the negative, the commission shall enter an order denying the approval of the said articles of incorporation.

(b) If the commission approve the said articles of incorporation as herein above provided, the same shall be filed together with the attached copy of the order of the commission in the office of the ~~secretary of state who shall forthwith endorse his approval thereon~~ **department of commerce** and file one (1) of said copies in his office and deliver all other copies thereof with his approval endorsed thereon to the incorporators who shall thereupon file one (1) of the said approved copies of said articles in the office of the county recorder in each county in which a portion of the territory proposed to be served by the corporation is located. As soon as the provisions of this section have been complied with, the proposed corporation described in the articles so filed, under its designated name, shall be and constitute a body corporate.

SECTION 52. IC 8-1-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 16. (a) Any corporation created under the provisions of this chapter may enter into an agreement for the consolidation or merger of such a corporation with:

- (1) any other corporation organized under this chapter; or
- (2) any mutual benefit corporation that was organized before 1964 under Acts 1935, c. 157, that engages in the generation, transmission, or distribution of electric energy.

(b) An agreement under subsection (a) must set forth the terms and conditions of the consolidation or merger, the name of the proposed consolidated or merged corporation, the number of its directors, not less than five (5), the time of the annual election and the names of the persons, not less than five (5), to be directors upon completing the consolidation or merger. The agreement must specify the terms the directors will serve. A corporation organized under this chapter shall duly call and hold a meeting of its members, as provided in section 8 of this chapter, at which the proposal of such consolidation or merger shall be presented. A mutual benefit corporation must approve the



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merger in accordance with IC 23-17-19-3. With respect to such a merger, the agreement may provide that the surviving corporation may have one (1) or more members that are incorporated under the laws of a state other than Indiana. If at each such meeting, the aforesaid agreement is approved by a resolution duly adopted and receiving the affirmative vote of at least a majority of all the members of the respective corporation voting at the meeting, the directors named in the agreement shall subscribe and acknowledge articles conforming substantially to the original articles of incorporation, except that it shall be entitled and endorsed "Articles of consolidation (merger) of \_\_\_\_\_" (the blank space being filled in with the names of the corporations being consolidated or merged) and shall state:

- (1) The names of the corporations being consolidated or merged.
- (2) The name of the consolidated or merged corporation.
- (3) The other items required or permitted to be stated in original articles of incorporation.

(c) Articles of consolidation or merger under this section or a certified copy or copies thereof shall be filed ~~in the office of with the secretary of state~~ **department of commerce** and thereupon the proposed consolidated or merged corporation, under its designated name, shall be and constitute a body corporate with all the powers of a corporation as originally formed hereunder. In the case of a merger of a corporation organized under this chapter and a mutual benefit corporation, IC 23-17-19-5 applies.

SECTION 53. IC 8-1-13-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 21. Any corporation created under this chapter may be dissolved by filing ~~in the office of with the secretary of state~~ **department of commerce** articles of dissolution which shall be entitled and indorsed "Articles of dissolution of \_\_\_\_\_" (the blank space being filled in with the name of the corporation) and shall state:

- (a) Name of the corporation and, if such corporation is a corporation resulting from a consolidation as provided in this chapter, the names of the original corporations.
- (b) The date of filing of the articles of incorporation ~~in with the office of secretary of state~~ **department of commerce** and, if such corporation is a corporation resulting from a consolidation as provided in this chapter, the dates on which the articles of incorporation of the original corporations were filed ~~in with the office of secretary of state.~~ **department of commerce.**
- (c) That the corporation elects to dissolve.
- (d) The name and post office address of each of its directors, and



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the name, title, and post office address of each of its officers. Such articles shall be subscribed and acknowledged in the same manner as original articles of incorporation by the president or vice president and the secretary or an assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a resolution duly adopted by the members of each corporation at meetings thereof duly called and held as provided in section 8 of this chapter. Articles of dissolution and/or a certified copy or copies thereof shall be filed in the same places as original articles of incorporation and thereupon the corporation shall be deemed to be dissolved. Such corporation shall continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued, in its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged shall pass to and become the property of the state.

SECTION 54. IC 8-1-13-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 22. (a) A corporation created under this chapter may amend its articles of incorporation to change its corporate name, to increase or reduce the number of its directors or change any other provisions therein; however, no corporation shall amend its articles of incorporation to embody therein any purpose, power, or provision which would not be authorized if its original articles of incorporation, including such additional or changed purpose, power, or provision were offered for filing at the time articles under this section are offered. Such amendment may be accomplished by filing articles of amendment **in with the office of the secretary of state department of commerce** which shall be entitled and endorsed "Articles of amendment of \_\_\_\_\_" (the blank space being filled in with the name of the corporation) and state:

- (1) The name of the corporation, and if it has been changed, the name under which it was originally incorporated.
- (2) The date of filing the articles of incorporation in each public office where filed.
- (3) Whether the territory served or to be served by the corporation is to be changed and, if so, whether it is to be increased or decreased.
- (4) The purposes, powers, or provisions, if any, to be amended or eliminated and the purposes, powers, or provisions, if any, to be added or substituted.



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(b) Such articles shall be subscribed in the name of the corporation by the president or a vice president, and by the secretary or the assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a resolution duly adopted at a meeting of the corporation duly called and held as provided in section 8 of this chapter, or upon waiver of notice signed by all the members of the corporation. If by any such amendment to articles of incorporation, the territory proposed to be served by the corporation is to be increased or decreased, the articles of amendment, together with a petition executed by the secretary or assistant secretary of the corporation and praying for the permission of the commission shall be submitted to such commission. Thereupon, the commission shall set said petition for public hearing and shall give notice of the time and place thereof one (1) time in at least one (1) newspaper published in each of the counties in which lies any of the territory proposed to be added or omitted by such amendment, which publication shall be at least ten (10) days before such hearing; the cost of such publication shall be paid by the petitioner when filing such petition.

(c) Any interested person may appear, personally or by attorney, at such hearing and aid or oppose the prayer of the petition. After such hearing, the commission shall grant or deny the petition and make its order accordingly.

(d) No amendment increasing or decreasing the territory to be served by such corporation shall be filed ~~in with the office of the secretary of state~~ **department of commerce** unless there be attached thereto a certified copy of an order from the commission consenting to such increase or decrease. Such articles shall be filed ~~in with the office of the secretary of state~~ **department of commerce** and thereupon the amendment shall be deemed to have been effected.

SECTION 55. IC 8-1-13-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 26. Any foreign corporation organized as a nonprofit corporation for the purpose of making electric energy available to the inhabitants of rural areas may be admitted to do business within this state and shall have the same powers, restrictions, and liabilities as a corporation organized under this chapter. Whenever such foreign corporation desires to be admitted to operate in this state, it shall file with the commission a petition in as many original counterparts as there are counties in Indiana, in which it requests permission to make electric energy available, plus five (5). Said petition shall describe the territory in Indiana in which its operations are to be conducted and pray the said commission to grant



to it a certificate of public convenience and necessity for such operations. To each such original petition, there shall be attached a copy of the articles of incorporation of said corporation, with all amendments thereto, duly authenticated by the proper officer of the state wherein it is incorporated. Said petition shall be acted upon by the commission in accordance with the provisions of section 18 of this chapter. The commission shall enter a finding that the convenience and necessity of the public proposed to be served in the Indiana territory in which the operations of the corporation are proposed to be conducted either will or will not be served by such operations. If said finding be in the negative, said commission shall enter an order denying the petition. If such finding be in the affirmative, said commission shall enter an order granting a certificate of public convenience and necessity for the proposed operations of said corporation in Indiana and shall attach a copy of said order, duly certified by the secretary of said commission, to each of the originals of said petition, filed as aforesaid, except two (2) and deliver the same to the petitioner. The corporation shall then present to the ~~secretary of state~~ **department of commerce** all such sets of authenticated copy of articles, original petition, and order of the commission, together with such application for admission to do business in this state, if any, as the ~~secretary of state~~ **department of commerce** may require and tender to the ~~said secretary of state~~ **department of commerce** six dollars and fifty cents (\$6.50) to cover his fees for filing, certificate, and seal. If the ~~secretary of state shall approve~~ **department of commerce approves** the same, ~~he documents,~~ **the department** shall ~~endorse his~~ **indicate the** approval upon each of the ~~aforesaid~~ sets of documents, file one (1) ~~thereof in his office of the~~ **sets with the department**, return the remaining ones to the corporation, and issue to the corporation ~~his a~~ certificate of admission to do business in ~~this state:~~ **Indiana**. Thereupon, and before the corporation shall do any business in ~~this state;~~ **Indiana**, it shall file in the office of the recorder of each county in Indiana in which it is to make electric energy available, one (1) of said sets of documents bearing the approval of the ~~secretary of state endorsed thereon:~~ **department of commerce.**

SECTION 56. IC 8-1-17-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2.1. (a) If the requirements of subsection (b) are met, a local cooperative telephone corporation formed under Acts 1935, c.157 is considered to have been formed under this chapter and is subject to its requirements and not the requirements of IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.



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(b) A local cooperative telephone corporation described in subsection (a) shall amend its articles of incorporation in accordance with IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17 to conform to the requirements of this chapter and shall submit a copy of its amended articles to the commission for approval. After examining the articles, the commission shall approve the amended articles if they conform to the requirements of this chapter. The commission may approve the amended articles without conducting a hearing. The ~~secretary of state~~ **department of commerce** may not issue a certificate of amendment before the commission approves the amended articles under this subsection.

(c) The certificate of public convenience and necessity or certificate of territorial authority previously issued to a local cooperative telephone corporation described in subsection (a) shall serve as the certificate required under section 6 of this chapter.

(d) Subsection (a) applies to a local telephone cooperative corporation as of the date the ~~secretary of state~~ **department of commerce** issues a certificate of amendment under IC 23-7-1.1-26 (before its repeal August 1, 1991) or IC 23-17-17.

(e) The local cooperative telephone corporation shall record the amended articles of incorporation in the county where the local cooperative telephone corporation has its principal office.

SECTION 57. IC 8-1-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) The individuals executing the articles of incorporation of a local cooperative corporation shall be residents of the area in which the operations of the cooperative corporation are to be conducted and shall be persons desirous of using telephone service to be furnished by the cooperative corporation.

(b) The individuals executing the articles of incorporation of a general cooperative corporation shall be members or prospective members of one (1) or more local cooperative corporations which are prospective members of such general cooperative corporation.

(c) The articles shall be executed in at least six (6) originals and shall be acknowledged by the subscribers before an officer authorized by law to take acknowledgments of deeds. When so acknowledged, three (3) originals of said articles shall be submitted to the commission. At the time the articles of incorporation are filed, a petition shall be filed with the commission, which petition shall be executed by one (1) or more of the individuals executing the said articles, and shall pray the commission to grant a certificate of public convenience and necessity for the organization and operation of the proposed cooperative





1 corporation.

2 (d) Upon the submission of such articles to, and filing of such  
3 petition with, the commission, it shall set the said petition for public  
4 hearing and give notice of the time, place and purpose thereof by  
5 publication in at least one (1) newspaper printed and published in each  
6 of the counties in which the said cooperative corporation proposed to  
7 operate. The publication shall be at least ten (10) days prior to the date  
8 set for said hearing. The cost of such publication shall be paid by the  
9 petitioners at or before the time of such hearing. If it be a local  
10 cooperative corporation, in addition to such published notice, the  
11 commission shall give written notice, by United States registered mail,  
12 of the time, place and purpose of such hearing, to each telephone  
13 company operating in territory contiguous to the area in which the  
14 respective cooperative corporation proposed to render telephone  
15 service. The commission shall keep maps or records from which it can  
16 readily ascertain which telephone companies should receive notice as  
17 last provided, and information so available shall be used in the mailing  
18 of the aforesaid notices.

19 (e) Any interested person may appear at such hearing, either in  
20 person or by attorney, and support or oppose the prayer of said petition.  
21 The commission, after hearing the evidence introduced at said hearing,  
22 shall enter a finding that the convenience and necessity of the public  
23 proposed to be served in the territory in which the operations of the  
24 cooperative corporation are proposed to be conducted either will or will  
25 not be served by the organization and operation of the proposed  
26 cooperative corporation. If such finding be in the affirmative, the  
27 commission shall enter an order approving the organization of such  
28 cooperative corporation and the proposed articles of incorporation. If  
29 the said finding be in the negative, the commission shall enter an order  
30 denying the approval of said articles of incorporation.

31 (f) If the commission approves the ~~said~~ articles of incorporation as  
32 provided in subsection (e), the articles of incorporation, together with  
33 an attached certified copy of the order of the commission, shall be  
34 proffered in triplicate to the ~~secretary of state~~ **department of**  
35 **commerce** for filing. ~~in his office.~~ After the ~~secretary of state~~  
36 **department of commerce** finds ~~said the~~ articles and order comply  
37 with law, ~~he the department~~ shall ~~forthwith~~ **endorse his** ~~indicate~~  
38 ~~approval thereon on the articles~~ and file one (1) set of ~~such the~~ articles  
39 and order ~~in his office with the department~~ and deliver the other two  
40 (2) sets ~~thereof;~~ with ~~his the department's~~ approval ~~endorsed thereon;~~  
41 **indicated** to the incorporators. The incorporators shall record one (1)  
42 of the approved originals of ~~said the~~ articles with attached certified



copy of the commission's order in the office of the recorder of the county in which the cooperative corporation has, or is to have, its principal office.

(g) As soon as the provisions of this section have been complied with, the proposed cooperative corporation, described in the articles of incorporation so recorded, under its designated name, shall be a body corporate.

SECTION 58. IC 8-1-17-22.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 22.5. (a) This section provides the exclusive statutory manner for local cooperative corporations to withdraw, with certain exceptions, from the jurisdiction of the commission. It applies only to local cooperative corporations formed under this chapter. A local cooperative corporation that successfully withdraws from commission jurisdiction under the provisions of this section, shall still fully comply with all of the provisions of this chapter that do not directly concern the commission.

(b) Any local cooperative corporation that proposes to withdraw (as provided for in this section) from the jurisdiction of the commission, must first obtain approval of its members.

(c) The board of directors of a local cooperative corporation must conduct a referendum among its members to determine whether they approve of the removal of jurisdiction from the commission.

(d) The board shall send written notice of its intent to conduct a referendum to the commission before it may proceed under this section.

(e) The referendum must be conducted at the annual meeting of the members (section 9 of this chapter) or if the annual meeting is more than ninety (90) days from the date notice was sent to the commission, then at a special meeting called by the board.

(f) Written notice of the meeting must be sent to every member not less than thirty (30) days before the date of the meeting. The notice must contain the following information:

- (1) The place, date, and hour of the meeting of members.
- (2) The purpose of the meeting including an explanation of what the withdrawal from commission jurisdiction entails.
- (3) The fact that no proxies will be permitted.

(g) A quorum consisting of not less than five percent (5%) of the members must be present at the meeting to transact business and to take any official action regarding the jurisdiction question.

(h) The board shall distribute secret written ballots to the members present at the meeting. The form of the ballots shall be as follows:

☐ YES, I want to withdraw from the jurisdiction of the commission.

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1           [] NO, I want to remain under the jurisdiction of the  
2           commission.

3           Only those members present at the meeting are eligible to vote, and  
4           proxy votes will not be permitted. Each member present shall be  
5           entitled to only one (1) vote on the question of withdrawal from  
6           commission jurisdiction. If a majority of the members present vote in  
7           favor of the corporation withdrawing from commission jurisdiction, it  
8           becomes effective thirty (30) days after the date of the vote. If less than  
9           a majority of the members present vote in favor of withdrawal from  
10          commission jurisdiction, the corporation is prohibited from seeking  
11          withdrawal for eighteen (18) months following the date of the vote.  
12          Parties aggrieved by the decision to withdraw from commission  
13          jurisdiction or other interested parties must file an action in the circuit  
14          or superior court (of the county where the cooperative has its principal  
15          office) to contest compliance with this section no more than thirty (30)  
16          days after the original vote.

17          (i) If a local cooperative corporation successfully withdraws from  
18          commission jurisdiction, the board of directors shall within five (5)  
19          days of the meeting, send written confirmation to the commission  
20          containing the following information:

- 21           (1) The total membership of the corporation.
- 22           (2) The total number present at the meeting.
- 23           (3) The actual vote, both for and against withdrawal.
- 24           (4) Written verification of notice of the meeting.
- 25           (5) An affidavit, signed by all of the members of the board of  
26           directors, stating that all of the requirements of this section have  
27           been met.

28          (j) When a local cooperative corporation successfully withdraws  
29          from commission jurisdiction, the commission shall have no authority  
30          to regulate:

- 31           (1) schedules of rates and charges other than intrastate message  
32           toll charges, which continue under commission jurisdiction;
- 33           (2) depreciation schedules;
- 34           (3) quality of service (rules and standards for telephone service);
- 35           (4) long term financing (obligations); or
- 36           (5) any other aspect formerly regulated by the commission under  
37           this article, except for certificates of public convenience and  
38           necessity and administration of federal law as provided under  
39           subsection (k) and except as provided in subsection (l).

40          (k) If a local cooperative corporation successfully withdraws from  
41          commission jurisdiction, the commission shall continue to exercise  
42          jurisdiction over a local cooperative corporation, but only with regard

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1 to:

2 (1) certificates of public convenience and necessity relating to  
3 territory, as provided in section 6 of this chapter; and

4 (2) administration of federal law for which regulatory  
5 responsibility has been delegated to the commission by federal  
6 statute.

7 The commission shall not deny relief requested pursuant to federal law  
8 by a cooperative corporation that has withdrawn from commission  
9 jurisdiction under this section solely because of the withdrawal. In  
10 addition, a local cooperative corporation must continue to pay the  
11 public utility fee required under IC 8-1-6 even if it successfully  
12 withdraws from commission jurisdiction under this section.

13 (1) Whenever two (2) or more local cooperative corporations formed  
14 under this chapter propose to consolidate (and are operating or  
15 authorized to operate in contiguous territory) as provided in section 18  
16 of this chapter, and at least one (1), but not all of the cooperatives have  
17 successfully withdrawn from commission jurisdiction, then for  
18 purposes of the consolidation, all of the cooperatives are under the  
19 commission's jurisdiction and the provisions of sections 18 and 19 of  
20 this chapter must be complied with. In addition, the new corporation  
21 that is formed as a result of the consolidation shall, for all purposes, be  
22 under the commission's jurisdiction, and must fully comply with the  
23 provisions of this section in order to withdraw from commission  
24 jurisdiction. If two (2) or more local cooperative corporations formed  
25 under this chapter propose to consolidate (and are operating or  
26 authorized to operate in contiguous territory) as provided in section 18  
27 of this chapter, and all of the cooperatives have successfully withdrawn  
28 from commission jurisdiction, then the new cooperative corporation  
29 shall continue to operate outside the commission's jurisdiction under  
30 the terms provided for in this section. The approval of the commission  
31 is not required for consolidation of two (2) or more corporations that all  
32 have successfully withdrawn from commission jurisdiction. The new  
33 corporation must, however, file new articles of incorporation with the  
34 ~~secretary of state~~, **department of commerce** who shall approve them  
35 if they comply with the law. In addition, the new cooperative  
36 corporation must, after the ~~secretary of state~~ **department of commerce**  
37 ~~has endorsed his indicated approval thereon, on the articles,~~ record  
38 the articles of incorporation in the county where the new cooperative  
39 is to have its principal office. The provisions of sections 18 and 19 (not  
40 relating to the commission) of this chapter, apply whenever all of the  
41 local cooperatives proposing to consolidate have successfully  
42 withdrawn from commission jurisdiction under the provisions of this



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1 section.

2 (m) Whenever the members of a local cooperative corporation  
3 desire to return to commission jurisdiction they must petition the  
4 commission. A petition signed by:

5 (1) not less than fifteen percent (15%) of the members; or

6 (2) the board of directors of the local cooperative corporation;

7 must first be submitted to the commission, informing that body of the  
8 corporation's intent to conduct a referendum concerning the return to  
9 commission jurisdiction. The procedures outlined in subsections (e),  
10 (f), (g), (h), and (i) must be followed when conducting a referendum  
11 under this subsection, except that the form of the ballots shall be as  
12 follows:

13 ☐ YES, I want to return to the jurisdiction of the  
14 commission.

15 ☐ NO, I want to remain outside of the jurisdiction of the  
16 commission.

17 If a corporation returns to commission jurisdiction, the commission  
18 assumes all of the jurisdiction it would have if the corporation had not  
19 withdrawn in the first instance, effective thirty (30) days after the date  
20 of the vote. If less than a majority of the members present vote in favor  
21 of returning to commission jurisdiction, a referendum on the question  
22 may not be conducted for eighteen (18) months following the date of  
23 the vote.

24 SECTION 59. IC 8-1-17-23 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 23. (a) A  
26 cooperative corporation may amend its articles of incorporation to  
27 change its corporate name, to increase or reduce the number of its  
28 directors, or change any other provisions therein; provided, that any  
29 change of location of the principal office may be effected in the manner  
30 set forth in section 24 of this chapter, and further provided that no  
31 cooperative corporation shall amend its articles of incorporation to  
32 embody therein any purpose, power, or provision which would not be  
33 authorized if its original articles of incorporation, including such  
34 additional or changed purpose, power, or provision, were offered for  
35 filing at the time articles under this section are offered. Such  
36 amendment may be accomplished by filing articles of amendment  
37 which shall be entitled and endorsed "Articles of Amendment of  
38 \_\_\_\_\_" (the blank space being filled in with the name of the  
39 cooperative corporation) and state:

40 (1) The name of the cooperative corporation, and if it has been  
41 changed, the name under which it was originally incorporated.

42 (2) The date of filing the articles of incorporation in each public



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office where filed.

(3) Whether the statement of counties within which its operations are to be conducted is to be changed, and if so the new statement of such counties.

(4) The president or vice president executing such articles of amendment shall make and annex thereto an affidavit stating that the provisions of this section in respect to the amendment set forth in such articles were complied with.

(b) Such articles shall be subscribed in the name of the cooperative corporation by the president or vice president, and by the secretary or the assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a resolution duly adopted at a meeting of the cooperative corporation duly called and held as provided in section 9 of this chapter. If by any such amendment to articles of incorporation, the territory proposed to be served by the cooperative corporation is to be increased or decreased, the articles of amendment, together with a petition executed by the president, or vice president, and by the secretary or the assistant secretary of the cooperative corporation and praying for the permission of the commission shall be submitted to the commission. Thereupon, the commission shall set said petition for public hearing and shall give notice of the time and place thereof one (1) time in at least one (1) newspaper published in each of the counties in which lies any of the territory proposed to be added or omitted by such amendment, which publication shall be at least ten (10) days before such hearing. The cost of publication shall be paid by the petitioner when filing such petition. Also written notice of the time and place of such hearing shall be mailed to each telephone company operating in contiguous territory in the manner provided in section 5 of this chapter. Any interested person may appear, personally or by attorney, at such hearing and aid or oppose the prayer of the petition. After such hearing, the commission shall grant or deny the petition and make its order accordingly. No amendment increasing or decreasing the territory to be served by such cooperative corporation shall be filed ~~in with the office of the secretary of state department of commerce~~ or of any county recorder unless there be attached thereto a certified copy of an order of the commission consenting to such increase or decrease. Such articles shall be filed in the same places as the original articles of incorporation and thereupon the amendment shall be deemed to have been effected.

SECTION 60. IC 8-1-17-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 24. A cooperative corporation formed hereunder may change the location of its principal

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office by filing ~~in with the office of the secretary of state~~ **department of commerce** a certificate reciting such change of principal office and setting forth the resolution by its board of directors authorizing such change and stating the time and place of its adoption, which certificate shall be executed and acknowledged by the cooperative corporation's president or vice-president with the corporate seal attached and attested by the secretary or assistant secretary.

SECTION 61. IC 8-1-17-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 25. Any cooperative corporation may dissolve by filing ~~in with the office of the secretary of state~~ **department of commerce** articles of dissolution which shall be entitled and endorsed "Articles of Dissolution of \_\_\_\_\_" (the blank space being filled in with the name of the cooperative corporation) and shall state:

(a) The name of the cooperative corporation, and if such cooperative corporation is a corporation resulting from the consolidation as provided in this chapter, the names of the original cooperative corporations.

(b) The date of filing of the articles of incorporation ~~in with the office of secretary of state~~ **department of commerce** and, if such cooperative corporation is a corporation resulting from a consolidation as provided in this chapter, the dates on which the articles of incorporation of the original cooperative corporations were filed ~~in with the office of secretary of state~~ **department of commerce**.

(c) That the cooperative corporation elects to dissolve.

(d) The name and post office address of each of its directors, and the name, title, and post office address of each of its officers.

Such articles shall be subscribed and acknowledged by the president or a vice president and the secretary or an assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a resolution duly adopted by the members of the cooperative corporation at a meeting thereof duly called and held as provided in section 9 of this chapter. Articles of dissolution or a certified copy or copies thereof shall be filed in the same places as original articles of incorporation, and thereupon the cooperative corporation shall be deemed to be dissolved. Such cooperative corporation shall continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business affairs, and may sue and be sued in its corporate name. Any assets remaining after all liabilities and



obligations of the cooperative corporation have been satisfied and discharged shall be refunded pro rata to the patrons, their assignees, personal representatives, heirs, or legatees, who shall have paid for telephone service rendered by the cooperative corporation, within a five (5) year period next preceding such dissolution. Any assets not so refunded within a two (2) year period after such dissolution is completed shall pass to and become the property of the state of Indiana.

SECTION 62. IC 8-1-17-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 26. Any foreign corporation organized as a nonprofit corporation for the purpose of making telephone service available to the inhabitants of rural areas may be admitted to do business within this state and shall have the same powers, restrictions, and liabilities as a cooperative corporation organized under this chapter. Whenever such foreign corporation desires to be admitted to operate in this state, it shall file with the commission a petition in as many original counterparts as there are counties in Indiana, in which it requests permission to make telephone service available, plus five (5). Said petition shall describe the territory in Indiana in which its operations are to be conducted and pray the commission to grant to it a certificate of public convenience and necessity for such operations. To each such original petition, there shall be attached a copy of the articles of incorporation of said foreign corporation, with all amendments thereto, duly authenticated by the proper officer of the state wherein it is incorporated. Upon the filing of such petition with the commission, the commission shall set the said petition for public hearing, and shall give notice of the time and place of such hearing by publication one (1) time in at least one (1) newspaper printed and published in each of the counties in which the said foreign corporation proposes to carry on its operations, which publication shall be had at least ten (10) days prior to the date set for such hearing, the cost of such publications to be paid by the petitioners at the time of filing said petition. Also, written notice of the time and place of such hearing shall be mailed to each telephone company operating in contiguous territory in the manner provided in section 5 of this chapter. Any interested person may appear at such hearing, either in person or by attorney, and support or oppose the prayer of said petition. The commission shall enter a finding that the convenience and necessity of the public proposed to be served in the Indiana territory in which the operations of the foreign corporation are proposed to be conducted either will or will not be served by such operations. If said finding be in the negative, the commission shall enter an order denying the petition. If such finding be in the affirmative, the commission shall





1 enter an order granting a certificate of public convenience and  
 2 necessity for the proposed operations of said foreign corporation in  
 3 Indiana and shall attach a copy of said order, duly certified by the  
 4 secretary of the commission, to each of the originals of said petition,  
 5 filed as aforesaid, except two (2), and deliver the same to the petitioner.  
 6 The foreign corporation shall then present to the ~~secretary of state of~~  
 7 **Indiana department of commerce** all such sets of authenticated copy  
 8 of articles, original petitions, and order of the commission, together  
 9 with such application for admission to do business in this state, if any,  
 10 as the ~~secretary of state~~ **department of commerce** may require, and  
 11 tender to the ~~said secretary of state~~ **department of commerce** six  
 12 dollars and fifty cents (\$6.50) to cover ~~his~~ fees for filing, certificate and  
 13 seal. If the ~~secretary of state~~ **department of commerce**  
 14 **approves the same, he shall endorse his documents, the department**  
 15 **shall indicate** approval upon each of the ~~aforesaid~~ sets of documents,  
 16 file one (1) ~~thereof in his office, set with the department,~~ return the  
 17 remaining ~~ones sets~~ to the foreign corporation, and issue to ~~it his the~~  
 18 **foreign corporation a** certificate of admission to do business in ~~this~~  
 19 ~~state: Indiana.~~ Thereupon, and before the foreign corporation shall do  
 20 any business in ~~this state, Indiana,~~ it shall file in the office of the  
 21 recorder of each county in Indiana in which it is to make telephone  
 22 service available, one (1) of ~~said the~~ sets of documents bearing the  
 23 approval of the ~~secretary of state endorsed thereon: department of~~  
 24 **commerce.**

25 SECTION 63. IC 8-4-1-3 IS AMENDED TO READ AS FOLLOWS  
 26 [EFFECTIVE JANUARY 1, 2000]: Sec. 3. Articles of association  
 27 formed under section 1 of this chapter shall be filed ~~in with the office~~  
 28 ~~of the secretary of state; department of commerce,~~ and, thereupon, the  
 29 persons who have subscribed the same, and all persons who shall, from  
 30 time to time, become stockholders in such company, and their  
 31 successors, shall be a body politic and corporate, in perpetuity, by the  
 32 name stated in such articles of association; and may sue or be sued; and  
 33 may have a common seal, and may make and alter the same at pleasure;  
 34 and shall be capable, in law, of purchasing, holding, and conveying any  
 35 real and personal property whatever, necessary for the construction of  
 36 such road and for the erection of all necessary buildings and yards and  
 37 appurtenances for the use of the same. A copy of any articles of  
 38 association filed in pursuance of this chapter, and certified to be a copy,  
 39 by the ~~secretary of state or his deputy; department of commerce,~~  
 40 shall, in all courts and places, be presumptive evidence of the  
 41 incorporation of such company and of the facts stated therein.

42 SECTION 64. IC 8-4-1-12 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. The president  
 2 and a majority of the directors, within thirty (30) days after the payment  
 3 of the last instalment of the capital stock so fixed and limited by the  
 4 company, shall make a certificate, stating the amount of capital stock  
 5 so fixed and paid in, which certificate shall be signed by the president  
 6 and a majority of the directors, and sworn to by the president and  
 7 secretary, and they shall, within the said thirty (30) days, file and  
 8 record the same ~~in with the office of the secretary of state;~~ **department**  
 9 **of commerce.**

10 SECTION 65. IC 8-4-1-31 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 31. Every  
 12 corporation shall, within a reasonable time after their road shall be  
 13 located, cause to be made:

14 First. A map and profile thereof, and of the land taken and obtained  
 15 for the use thereof, and file the same ~~in the office of the secretary of~~  
 16 ~~state;~~ **department of commerce** and also like maps of the parts thereof  
 17 located in different counties, and file the same in the office of the clerk  
 18 of the county in which said parts of said road shall be, there to remain  
 19 as of record forever.

20 Second. A certificate specifying the line upon which it is proposed  
 21 to construct the railroad, and the grades and curves.

22 SECTION 66. IC 8-4-2-4 IS AMENDED TO READ AS FOLLOWS  
 23 [EFFECTIVE JANUARY 1, 2000]: Sec. 4. If at such special or annual  
 24 meeting of the stockholders, said amendments, or any of them, be  
 25 submitted to a vote, and if it shall appear that votes representing a  
 26 majority (or such greater proportion as said articles may require) of all  
 27 the outstanding stock of each class of said company are cast in favor of  
 28 the approval of said amendments or any of them, as submitted by the  
 29 directors or as altered by the stockholders' meeting, a certificate setting  
 30 forth such amendments as adopted and the approval thereof, verified  
 31 by the affidavit of the president or vice-president and under the  
 32 corporate seal of said company shall be filed ~~in with the office~~  
 33 **department of the secretary of state; commerce,** and thereupon the  
 34 amendment or amendments so approved at such meeting of the  
 35 stockholders shall be, and are hereby declared, accomplished, and the  
 36 articles of association or consolidation of said company shall be  
 37 deemed to be amended in accordance with said vote of the  
 38 stockholders.

39 SECTION 67. IC 8-4-2-5 IS AMENDED TO READ AS FOLLOWS  
 40 [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) If any shareholder of  
 41 any such corporation who did not vote in favor of such amendment at  
 42 the meeting at which the amendment was adopted by the shareholders

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of such corporation, shall, at any time within thirty (30) days after such adoption of the amendment by such shareholders, object thereto in writing and demand payment of the value of his shares, the corporation shall, in the event that the amendment shall be made effective, and in the event that the amendment is of such a nature that its adoption without his consent and without giving him a remedy would unconstitutionally deprive him of rights, pay to such shareholder, upon surrender of his certificates therefor, the value of such shares on March 9, 1939, which shall be the date the certificate required in section 4 of this chapter, shall be filed ~~in~~ **with the office department of the secretary of state commerce**. If before April 9, 1939, the value of such shares is agreed upon between the shareholder and the corporation, as the case may be, payment therefor shall be made before June 8, 1939. If, before April 9, 1939, the corporation and the shareholder do not so agree, either such corporation or the shareholder may, before June 8, 1939, petition the circuit or superior court of the county in which the principal office of the corporation is located, to appraise the value of such shares; and payment of the appraised value thereof shall be made within sixty (60) days after the entry of the judgment or order finding such appraised value. The practice, procedure, and judgment in the circuit or superior court upon such petition shall be the same, so far as practicable, as that under the eminent domain statutes in this state.

(b) Upon March 9, 1939, any shareholder who has made such objection and demand shall cease to be a shareholder and shall have no rights with respect to such shares except the right to receive payment therefor. Every shareholder who did not vote in favor of such amendment and who does not object in writing and demand payment of the value of his shares at the time and in the manner aforesaid, shall be conclusively presumed to have assented to such amendment, if he does not within six (6) months thereafter, in a court of competent jurisdiction, question such action.

(c) After April 8, 1939, the board of directors of the railroad company may, in its discretion, resubmit the amendment, or any other amendment, to a meeting of the stockholders of said company, in the same manner as is provided in sections 1 and 2 of this chapter, before filing ~~in the office department of the secretary of state commerce~~ the certificate provided in section 4 of this chapter, and shall file such certificate only upon receiving again the affirmative vote required in section 4 of this chapter.

SECTION 68. IC 8-4-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. Any railroad company organized under any general law of this state is hereby



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empowered to extend its road, from time to time, beyond either terminus fixed in its articles of association, and to construct, or cause to be constructed, to own and operate such extension or extensions, in the same manner, and to the same extent, as if such extension or extensions had been included between the termini named in its original articles of association: Provided, however, That before any such extension or extensions are commenced, the same shall be authorized by resolutions adopted by the holders of a majority, in value, of the capital stock of the company proposing to extend its road, and such resolutions shall specify the point from and the point to which such extension is to be made, and the township or townships and county or counties into or through which the same is to be constructed; and a copy of such resolution, signed by the president and attested by the secretary of said company, under its corporate seal, shall be filed ~~in~~ **with the office department of the secretary of state of this state: commerce.**

SECTION 69. IC 8-4-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. If the holders of record of all the outstanding shares of the capital stock of a corporation organized under the laws of this state for the purpose of constructing, owning, maintaining and/or operating a railroad other than a street railroad or an interurban railroad, consent, or have heretofore consented, in writing to its dissolution or if at a special meeting of which notice has been given to, or waived by, all the shareholders of every class, whether or not entitled to vote, a resolution is adopted, or has heretofore been adopted, by the votes cast in person or proxy by the holders of record of shares entitling them to exercise two-thirds (2/3) of the voting power, or such other proportion as the articles of incorporation or by-laws may require, declaring that it is desirable to wind-up and dissolve such corporation, the president or a vice-president and the secretary or an assistant secretary shall file ~~in~~ **with the office department of the secretary of state commerce** a certificate verified by their oath, stating **the following:**

- (1) The name of the corporation.
- (2) The place where its principal office is located.
- (3) The names and post-office addresses of its directors and officers, and, if any post-office address be in a city, the street and number or any other particular description thereof, if known.
- (4) That it elects to wind-up and dissolve.
- (5) That (if) they have been authorized to execute and file such certificate by a resolution adopted as above provided or that they have been so authorized by the written consent of the holders of



record of all the outstanding shares of the corporation.

SECTION 70. IC 8-4-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. Upon the filing of any such certificate together with an affidavit of one (1) of the principal officers of said corporation containing a statement that said corporation has lawfully disposed of all of its property and that all debts, obligations and liabilities of the corporation have been paid, or discharged, or that adequate provision has been made therefor, including all taxes accrued up to the date of such filing, the corporation shall be dissolved, and the ~~secretary of state~~ **department of commerce** shall make an appropriate entry or record accordingly.

SECTION 71. IC 8-4-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. In case of the sale of any railroad and its property (situated wholly or partly within this state, or situated partly in this state and partly in an adjoining state) by virtue of any mortgage or mortgages or deed or deeds of trust, either by foreclosure or other judicial proceedings, or pursuant to any power contained in such mortgage or mortgages or deed or deeds of trust, or by the joint exercise of said powers and authorities, the purchaser or purchasers thereof, their survivor or survivors, or he or his or they or their associates or assigns, may form a corporation by filing ~~in with the office department of the secretary of state~~ **commerce** a certificate specifying the name and style of the corporation, the number of directors, the names of the first directors and the period of their service (not exceeding one (1) year), the amount of original capital, and the number of shares into which said capital is to be divided; and in case of the reorganization of any railroad and its property (situated wholly or partly within this state and whether owned prior to the reorganization proceedings by a corporation of this state or by a corporation of another state) in a proceeding under section 77 of the Act of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States," as amended, any three (3) or more persons, being either directors or officers of the railroad, may form a corporation by filing ~~in with the office department of the secretary of state~~ **commerce** a certificate specifying the name and style of the corporation, the number of directors, the names of the first directors and the period of their service (not exceeding one (1) year), the amount of original capital, and the number of shares into which said capital is to be divided; and the persons signing said certificate, and their successors, shall be a body corporate and politic, by the name in said certificate specified, with power to sue and be sued, contract and be contracted with, and maintain and operate the railroad in said

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1 certificate named, and transact all business connected with same; and  
 2 a copy of such certificate, attested by the ~~signature of the secretary of~~  
 3 ~~state or his deputy,~~ **department of commerce**, shall, in all courts and  
 4 places, be evidence of the due organization and existence of the ~~said~~  
 5 corporation and of the matters in ~~said the~~ certificate stated.

6 SECTION 72. IC 8-4-16-2 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. Such  
 8 consolidation or merger shall be made in the following manner:

9 (1) The directors of the companies proposing to consolidate or  
 10 merge may enter into a joint agreement, under the corporate seal  
 11 of each company, for the consolidation or merger of such  
 12 companies, and prescribing the terms and conditions thereof, the  
 13 mode of carrying the same into effect, the name of the new  
 14 company in the case of a consolidation or of the company that is  
 15 to survive in the case of a merger, the number and names of the  
 16 directors and other officers thereof, and in case of a consolidation  
 17 who shall be the first directors and officers of the new company  
 18 and their places of residence, and either the amount of the  
 19 authorized capital stock of the new or surviving company and the  
 20 number and par value of the shares of which it is to consist or, if  
 21 the new or surviving company is to issue shares without par value  
 22 or shares of more than one (1) class, the statements required in  
 23 such case by IC 8-4-1-1, and the manner of converting into the  
 24 capital stock of the new or surviving company, or of otherwise  
 25 disposing of, the capital stock of each company, the capital stock  
 26 of which is to be so converted or disposed of, and how and when  
 27 the directors shall be chosen, with such other details as they shall  
 28 deem necessary to perfect such consolidation or merger; provided,  
 29 however, that in case of a merger it shall not be necessary for such  
 30 joint agreement to contain the provisions above specified with  
 31 regard to the directors and officers and capital stock of the  
 32 surviving company unless, and then only to the extent that,  
 33 changes in respect to such matters are to be made by such merger  
 34 agreement. Such joint agreement may also provide for the issue  
 35 of shares of the capital stock of the new or surviving company in  
 36 exchange for or conversion of bonds or other evidences of debt of  
 37 each, all or any of the companies so consolidated or merged and  
 38 may prescribe the manner, terms, and conditions of effecting such  
 39 exchange or conversion. But in no case shall the capital stock,  
 40 bonds, and other evidences of debt of the company formed by  
 41 such consolidation or of the surviving company in case of a  
 42 merger, including any shares of its capital stock issued in

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1 exchange for or conversion of bonds or other evidences of debt as  
2 herein provided, exceed the sum of the capital stock, bonds, and  
3 other evidences of debt of the companies parties to such  
4 consolidation or merger, at the par value thereof or, in the case of  
5 stock without par value, the amount of the consideration received  
6 therefor or the amount of the stated capital applicable thereto if  
7 greater than the amount of such consideration. Nor shall any  
8 bonds or other evidences of debt be issued as a consideration for  
9 such consolidation or merger. If any of the companies parties to  
10 such consolidation or merger is a corporation organized under the  
11 laws of any other state or states, or of any other state or states and  
12 this state, the joint agreement herein provided for may fix the  
13 location of the principal office of the new or surviving company  
14 in any of said states.

15 (2) If the holders of outstanding shares of stocks of any of the  
16 companies parties to such joint agreement representing two-thirds  
17 (2/3) (or such greater proportion as the articles of association,  
18 consolidation, or merger under which such company was formed  
19 may require) of the voting power of all the stock of such company  
20 entitled to vote thereon shall by consent in writing, acknowledged  
21 as are deeds entitled to be recorded and endorsed upon or  
22 annexed to such joint agreement, signify their assent thereto, it  
23 shall be deemed and taken as the adoption of such agreement by  
24 and on behalf of such company. If such agreement shall not be  
25 assented to in writing by stockholders of any of the companies  
26 parties thereto, as provided in this section, such agreement shall  
27 be submitted to the stockholders of such company at a meeting  
28 thereof called for the purpose of considering the same. Due notice  
29 of the time and place of holding such meeting, and the object  
30 thereof, shall be given by such company to its stockholders by  
31 written or printed notices addressed to each of the persons in  
32 whose names the capital stock of such company stands on the  
33 books thereof, and delivered to such persons respectively or sent  
34 to them by mail if their postoffice address is known to the  
35 company, at least thirty (30) days before the time of holding such  
36 meeting, and also by a general notice published at least once a  
37 week for four (4) weeks successively in some newspaper  
38 published in the city, town, or county where such company has its  
39 principal office or place of business. At such meeting of  
40 stockholders, such agreement shall be considered and a vote by  
41 ballot taken for the adoption or rejection of the same and if the  
42 votes of the holders of outstanding shares of stock of such

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1 company representing at least two-thirds (2/3) (or such greater  
 2 proportion of said articles may require) of the voting power of all  
 3 the stock of such company entitled to vote thereon, present and  
 4 voting in person or by proxy, shall be for the adoption of such  
 5 agreement, then that fact shall be certified thereon by the  
 6 secretary or assistant secretary of such company, under the seal  
 7 thereof. When such agreement shall have been consented to or  
 8 adopted by stockholders of each of the companies parties thereto,  
 9 as provided in this section, such agreement, or a certified copy  
 10 thereof, shall be filed ~~in with the office department of the~~  
 11 ~~secretary of state commerce~~ and shall thenceforth be deemed and  
 12 taken to be the agreement and act of consolidation or merger of  
 13 the companies parties thereto, and thereafter such companies shall  
 14 be one (1) company by the name provided in such agreement, but  
 15 such act of consolidation or merger shall not release such new or  
 16 surviving company from any of the restrictions, liabilities, or  
 17 duties of the several companies parties to such consolidation or  
 18 merger.

19 SECTION 73. IC 8-4-24-1 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) In case a  
 21 majority in interest of the creditors of a railroad company and the  
 22 majority in interest of the stockholders of such company agree upon a  
 23 plan for the readjustment or capitalization of the debt and stock thereof,  
 24 thereupon an agreement as aforesaid, either before or after a sale of  
 25 such railroad under judicial proceedings, and a purchase at such sale  
 26 by trustees on behalf of the parties to such agreement, all the franchises  
 27 and powers, including the franchises to act as a corporation conferred  
 28 by the charter of such railroad company, pass by such sale and vest in  
 29 the trustees, together with the railroad and all the other property  
 30 embraced in the sale. In case any railroad situate wholly or partly  
 31 within Indiana, or any part thereof situate within Indiana, shall, in  
 32 pursuance of such agreement, be sold by virtue of any mortgage or  
 33 mortgages or deed or deeds of trust, either by foreclosure or other  
 34 proceedings in law or equity, or pursuant to any power in such  
 35 mortgage or mortgages or deed or deeds of trust contained, or by the  
 36 joint exercise of those authorities, as provided in this section, the  
 37 purchaser or purchasers of the same, or their survivor or survivors, or  
 38 the associates of a purchaser or survivor, may form a corporation, by  
 39 filing ~~in with the office department of the secretary of state~~  
 40 ~~commerce~~ a certificate, under the signature of the purchasers,  
 41 survivors, and associates specifying the name of such corporation, the  
 42 number of directors, the names of the first directors and the period of

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1 their service (not exceeding one (1) year), the amount of the original  
 2 capital, and the number of shares into which such capital is to be  
 3 divided.

4 (b) The persons signing the certificate, and their successors, shall be  
 5 a body politic and corporate, by the name therein specified. A copy of  
 6 such certificate, attested by the ~~signature of the secretary of state or the~~  
 7 ~~secretary's deputy,~~ **department of commerce**, shall, in all courts and  
 8 places, be evidence of the due organization and existence of the  
 9 corporation and of the facts in the certificate stated. No sale under this  
 10 chapter shall be valid unless notice thereof, stating time and place of  
 11 sale, shall have been published in some newspaper of general  
 12 circulation in the city of New York, and also by publishing the notice  
 13 in at least one (1) newspaper of general circulation published in each  
 14 county in Indiana through which the railroad may run, not less than  
 15 thirty (30) nor more than sixty (60) days, at the discretion of the court  
 16 ordering the sale, immediately preceding the sale.

17 SECTION 74. IC 8-4-27-2 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. In case the  
 19 whole or any part of any railroad situate within this state (a part of  
 20 which is situate in another state) shall become vested in a corporation  
 21 of such other state, and such corporation shall also acquire a part of  
 22 such railroad situate in such other state, the said corporation may  
 23 exercise and enjoy, within this state, for the purposes of such railroad  
 24 and its business, all the powers, rights, privileges, immunities, and  
 25 franchises of a railroad corporation organized under the statutes of this  
 26 state; provided, that such corporation shall have filed, ~~in with the office~~  
 27 **department of the secretary of state of this state, commerce**, a copy of  
 28 its certificate of articles of incorporation, certified by the secretary of  
 29 state of ~~such the~~ other state; and provided, further, that the corporation  
 30 which acquires any such railroad shall hold and operate the part thereof  
 31 so acquired in this state, and shall exercise the powers, rights,  
 32 privileges, immunities, and franchises hereby conferred, subject to all  
 33 the rights, powers, privileges, duties, and obligations prescribed by the  
 34 general laws of this state, for the regulation, government, taxation, or  
 35 control of railroad companies organized under the laws of this state;  
 36 and provided, further, that this chapter shall not be construed as  
 37 authorizing any railroad company to purchase any parallel and  
 38 competing line of railroad in this state.

39 SECTION 75. IC 8-21-3-7 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) The  
 41 provisions of this chapter shall apply to any person who is not a  
 42 resident of this state under the same circumstances as they would apply

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1 to a resident, and, in such event, such a nonresident shall not operate  
 2 any aircraft in this state nor shall any aircraft owned by him be  
 3 operated in this state, unless and until such nonresident, or the owner  
 4 of the aircraft, if another person, has complied with the requirements  
 5 of this chapter with respect to security and proof of financial  
 6 responsibility covering such aircraft.

7 (b) The operation by a nonresident, or by his duly authorized agent,  
 8 of an aircraft in this state shall be deemed equivalent to an appointment  
 9 by such nonresident of the ~~secretary of state, or his successor in office,~~  
 10 **attorney general** to be his true and lawful attorney upon whom may be  
 11 served all lawful processes in any action or proceeding against him,  
 12 growing out of any aircraft accident in which such nonresident may be  
 13 involved while so operating or so permitting to be operated an aircraft  
 14 in this state, and such operation shall be signification of his agreement  
 15 that any such process against him, which is so served, shall be of the  
 16 same legal force and validity as if served upon him personally. Such  
 17 action may be filed in the county of the residence of the plaintiff or in  
 18 the county where the accident occurred, at the election of the plaintiff,  
 19 and service of such process shall be made by leaving a copy thereof,  
 20 with a fee of two dollars (\$2), for such defendant to be served, with the  
 21 ~~secretary of state, or in his~~ **attorney general's** office, and such service  
 22 shall be sufficient service upon such nonresident, provided that notice  
 23 of such service and a copy of the process are forthwith sent by  
 24 registered mail to the defendant and the defendant's return receipt is  
 25 appended to the original process and filed therewith in the court. In the  
 26 event that the defendant refuses to accept or claim such registered mail,  
 27 then such registered mail shall be returned by the ~~secretary of state~~  
 28 **attorney general** to the plaintiff or to ~~his~~ **the plaintiff's** attorney, and  
 29 the same shall be appended to the original process, together with an  
 30 affidavit of the plaintiff or of ~~his~~ **the plaintiff's** attorney or agent to the  
 31 effect that such summons was delivered to the ~~secretary of state,~~  
 32 **attorney general** together with a fee of two dollars (\$2), and was  
 33 thereafter returned unclaimed by the postoffice department, and such  
 34 affidavit, together with the returned affidavit including said summons,  
 35 shall be considered sufficient service upon such nonresident defendant.  
 36 The court in which the action is brought may order such continuances  
 37 as may be reasonable to afford the defendant opportunity to defend the  
 38 action.

39 (c) No insurance policy or bond shall be effective under section 4  
 40 of this chapter in the case of an aircraft owned or operated by a  
 41 nonresident in this state at the time of the accident or at the effective  
 42 date of the policy or bond, or the most recent renewal thereof, unless

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the insurance company or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the ~~secretary of state~~ **attorney general** to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

SECTION 76. IC 9-18-15-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13. (a) Revenue derived from the fees and contributions under section 10 of this chapter, except the part of the fee retained under section 10(e) of this chapter, shall be deposited with the treasurer of state in a special fund. The money from this fund remaining after the deduction provided for in subsection (d) shall be distributed monthly by the auditor of state in the following manner:

(1) To any political party that cast at least five percent (5%) but less than thirty-three percent (33%) of the total vote of the state of all political parties at the last general election for the office of governor, as certified to the ~~secretary of state~~ **election division** under IC 3-12-5-6, the auditor of state shall distribute an amount from the special fund equal to the fractional amount of the vote cast in the last general election for the office of governor. Distribution of money from this fund shall be made to the treasurer of the state central committee of the political party.

(2) The balance of the special fund remaining after distributions provided by subdivision (1) shall be distributed monthly by the auditor of state in equal amounts to the treasurers of the state central committees of the two (2) political parties that cast the highest and next highest number of votes statewide for governor in the last election.

(b) The bureau shall provide to:

(1) the treasurers of the respective state central committees; and  
(2) the auditor of state by the twentieth day of each month for the purpose of making the distributions under subsection (a);

a report defining the number of personalized license plates sold in each county, including the total dollar amount due the treasurers, during the monthly period prescribed in subsection (a). In addition, the bureau shall provide to the treasurers information necessary to comply with IC 3-9.

(c) Within thirty (30) days of receipt of money distributed under subsection (a), the treasurers of the respective state committees shall distribute to the treasurers of each county central committee of their respective parties an amount equal to one-half (1/2) of the distributions provided for in subsection (a)(2) that were collected during the



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1 quarterly period in that county.

2 (d) The bureau shall deduct seven dollars (\$7) for each original  
3 application and renewal application for a personalized plate and  
4 deposit the money in the motor vehicle highway account.

5 SECTION 77. IC 9-30-2-5 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) If a person  
7 who is an Indiana resident:

8 (1) is arrested for a misdemeanor regulating the use and operation  
9 of motor vehicles, other than the misdemeanor of operating a  
10 vehicle while intoxicated; and

11 (2) is not immediately taken to court as provided in section 4 of  
12 this chapter;

13 the person shall be released from custody by the arresting officer upon  
14 signing a written promise to appear in the proper court at a time and  
15 date indicated on the promise. The resident shall be given a copy of the  
16 promise.

17 (b) Except as provided in IC 9-28-1 and IC 9-28-2, if a person who  
18 is not an Indiana resident is arrested for a violation of a traffic  
19 ordinance or a statute punishable as an infraction or a misdemeanor  
20 that regulates the use and operation of a motor vehicle and is not  
21 immediately taken to court as provided in section 4 of this chapter, the  
22 person shall be released upon the deposit of a security. The security  
23 shall be:

24 (1) the amount of the fine and costs for the violation in the form  
25 of cash, a money order, or a traveler's check made payable to the  
26 clerk of the court; or

27 (2) a valid motor club card of a motor club that, by written plan  
28 approved by the ~~secretary of state~~ **attorney general** as provided  
29 in section 8 of this chapter, guarantees the nonresident's deposit  
30 in the amount of the fine and costs.

31 The proper court shall provide a list of security deposits, which must  
32 be equal to the fine and costs for the violation, and a security deposit  
33 agreement that acts as a receipt for the deposit. A nonresident who does  
34 not choose to deposit a security shall be taken to the proper court.

35 (c) The agreement for the security deposit and the written promise  
36 or notice to appear in court must contain the following:

37 (1) A citation of the violation.

38 (2) The name and address of the person accused of committing  
39 the violation.

40 (3) The number of the person's license to operate a motor vehicle.

41 (4) The registration number of the person's vehicle, if any.

42 (5) The time and place the person must appear in court.



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1 If the violation is a misdemeanor, the time specified for appearance  
 2 must be at least five (5) days after the arrest unless the arrested person  
 3 demands an earlier hearing. The place specified for appearance must  
 4 be in the proper court within the county where the person was arrested  
 5 or given a notice to appear in the case of an infraction or ordinance.  
 6 The nonresident shall be properly informed of the consequences of a  
 7 guilty plea or an agreed judgment. The agreement for the security must  
 8 also contain a provision in which the nonresident agrees that the court  
 9 shall take permanent possession of the deposit, and if the nonresident  
 10 fails to appear in court or is not represented in court, a guilty plea or an  
 11 offer of judgment shall be entered on the court's record on behalf of the  
 12 nonresident. Upon proper appearance or representation, the security  
 13 shall be returned to the nonresident.

14 (d) A nonresident licensed by a jurisdiction that has entered into an  
 15 agreement with Indiana under IC 9-28-2 may deposit the nonresident's  
 16 license to operate a motor vehicle with the law enforcement officer as  
 17 security for release. A nonresident shall, by the date required on the  
 18 security deposit agreement, do one (1) of the following:

- 19 (1) Appear in court.
- 20 (2) Be represented in court.
- 21 (3) Deliver to the court by mail or courier the amount of the fine  
 22 and costs prescribed for the violation.

23 The license to operate a motor vehicle shall be returned to the  
 24 nonresident upon payment of the fine and costs and entry of a guilty  
 25 plea or upon other judgment of the court. Until a judgment has been  
 26 entered upon the court's records, the nonresident's copy of the security  
 27 deposit agreement acts as a temporary license to operate a motor  
 28 vehicle. Upon failure to appear or to be represented, the nonresident's  
 29 license to operate a motor vehicle and a copy of the judgment shall be  
 30 sent by the court to the bureau, which shall notify the appropriate  
 31 agency in accordance with IC 9-30-3-8.

32 (e) A nonresident who requests to deposit a security in the amount  
 33 of the fine and costs shall be accompanied to the nearest United States  
 34 mail receptacle and instructed by the law enforcement officer to place:

- 35 (1) the amount of the fine and costs; and
- 36 (2) one (1) signed copy of the security deposit agreement;

37 into a stamped, addressed envelope, which the proper court shall  
 38 supply to the officer for the nonresident. The officer shall observe this  
 39 transaction and shall observe the nonresident deposit the envelope in  
 40 the mail receptacle. The nonresident shall then be released and given  
 41 a copy of the security deposit agreement. If the nonresident does not  
 42 appear in court or is not represented in court at the time and date

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1 specified on the receipt, a guilty plea or judgment against the  
 2 nonresident shall be entered and the security deposit shall be used to  
 3 satisfy the amount of the fine and costs prescribed for the violation.

4 (f) A nonresident motorist may deposit with the law enforcement  
 5 officer a valid motor club card as a guarantee of security if the motor  
 6 club or its affiliated clubs have a written plan approved by the ~~secretary~~  
 7 **of state attorney general** that guarantees the payment of the security  
 8 in the amount of the fine and costs if the motorist:

9 (1) does not appear in court; or

10 (2) is not represented in court on the date and time specified in  
 11 the security agreement.

12 (g) The recipient court may refuse acceptance of a security deposit  
 13 agreement for a second moving traffic charge within a twelve (12)  
 14 month period. The court may send notice requiring a personal court  
 15 appearance on a date specified. Upon failure to appear the court shall  
 16 take the appropriate action as described in this section.

17 SECTION 78. IC 9-30-2-8 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) A motor  
 19 club that is a domestic corporation or a foreign corporation qualified to  
 20 transact business in Indiana under IC 23-1 or IC 23-7-1.1, or otherwise  
 21 duly qualified to transact business in Indiana under Indiana corporation  
 22 law, may guarantee as security the club's motor club card or any card  
 23 of a motor club affiliated with the motor club, if the motor club files a  
 24 plan guaranteeing to pay the security in the amount of the fine and  
 25 costs. The ability to pay the security in the amount of the fine and costs  
 26 must be demonstrated by evidence of the motor club's financial  
 27 responsibility that must be:

28 (1) a balance sheet certified by a certified public accountant at the  
 29 end of the club's last available fiscal year showing net assets of  
 30 the motor club in excess of five hundred thousand dollars  
 31 (\$500,000); or

32 (2) a deposit by a surety company qualified to transact business  
 33 in Indiana of an annual bond in the amount of twenty-five  
 34 thousand dollars (\$25,000) payable to the state guaranteeing, in  
 35 the amount of fines and costs, the motor club cards covered by the  
 36 plan when used as a security deposit.

37 (b) A motor club that is a foreign corporation not qualified to  
 38 transact business in Indiana under IC 23-1, IC 23-7-1.1, or any other  
 39 Indiana corporation law shall demonstrate the club's ability to  
 40 guarantee payment of the club's card or cards of an affiliated member  
 41 as a security deposit upon the filing of a plan with the ~~secretary of state~~  
 42 **attorney general** guaranteeing payment of the fines and costs of the



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1 security and a deposit, by a surety company qualified to transact  
 2 business in Indiana, of an annual bond in the amount of twenty-five  
 3 thousand dollars (\$25,000) payable to the state, guaranteeing, in the  
 4 amount of fines and costs, the motor club's cards covered by the plan  
 5 when used as a security deposit.

6 (c) A motor club must, upon filing a plan with the ~~secretary of state,~~  
 7 **attorney general**, pay a filing fee of fifty dollars (\$50).

8 (d) A motor club must annually renew the club's motor card plan.  
 9 Renewal must be made by filing before May 1 of each year a new  
 10 certified balance sheet or surety bond together with a renewal fee of  
 11 fifty dollars (\$50) with the ~~secretary of state:~~ **attorney general**.

12 (e) An approved plan may be terminated by the motor club sixty  
 13 (60) days after written notice or termination has been delivered to the  
 14 ~~secretary of state:~~ **attorney general**. Upon failure of a motor club to  
 15 guarantee a security deposit, the motor club plan may be terminated by  
 16 the ~~secretary of state~~ **attorney general** under IC 4-21.5-3.

17 (f) Termination by the ~~secretary of state~~ **attorney general** does not  
 18 relieve a motor club of the club's obligation to pay judgments on cards  
 19 covered by the club's plan and accepted as security as provided in this  
 20 chapter. The attorney general may bring an action for the state in an  
 21 Indiana court against a motor club to enforce an obligation.

22 (g) The ~~secretary of state~~ **attorney general** shall, by June 1 of each  
 23 year and at other times necessary for the administration of this section,  
 24 prepare and distribute to all courts having jurisdiction over minor  
 25 traffic violations and to the superintendent of the state police  
 26 department lists of motor club cards that may be accepted as a security  
 27 deposit.

28 SECTION 79. IC 10-7-11-3 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. Such articles  
 30 of association shall be filed with the ~~secretary of state~~ **department of**  
 31 **commerce** and a duplicate thereof shall be filed with the county  
 32 recorder of the county where the principal place of business is located,  
 33 and from and after such filing with the ~~secretary of state~~ **department**  
 34 **of commerce** and county recorder such association shall be a body  
 35 politic and corporate, with the power to sue and be sued in its corporate  
 36 name, to acquire property, real and personal, by gift, devise, bequest  
 37 and purchase, and to use, lease or dispose of the same as the said  
 38 corporation may deem proper to further the objects of said corporation,  
 39 to borrow money and to evidence the same by notes, bonds or other  
 40 usual forms of securities and secure the payment of its obligations by  
 41 mortgages or deeds of trust upon its property, real or personal.

42 SECTION 80. IC 10-7-12-12 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. Whenever the  
 2 provisions of section 11 of this chapter are fully complied with, and the  
 3 articles provided for in section 11 of this chapter shall be signed, and  
 4 the money paid to the treasurer, such articles of incorporation shall be  
 5 filed with the ~~secretary of the state of Indiana~~ **department of**  
 6 **commerce** and paid to ~~such secretary of state~~ **the department of**  
 7 **commerce** the sum of one dollar (\$1), and ~~he~~ **the department** shall  
 8 record ~~said the~~ articles ~~in his office~~ **with the department** and return  
 9 to the secretary of ~~said the~~ corporation a certified copy of such articles  
 10 and, in ~~his the~~ certificate, shall state the date of the filing thereof, and  
 11 from the time said articles are so filed, said corporation shall be  
 12 deemed to have been in full force and existence.

13 SECTION 81. IC 11-12-6-14 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. (a)  
 15 Notwithstanding section 13 of this chapter, the department shall  
 16 deposit funds in county corrections funds under this section if the funds  
 17 appropriated to the department for county corrections funds are  
 18 insufficient to meet the amounts required to be deposited under section  
 19 13 of this chapter.

20 (b) The department shall make deposits until the funds described in  
 21 subsection (a) are exhausted and shall make the deposits in the  
 22 following order:

23 (1) To the county corrections fund of counties electing to receive  
 24 level 3 funding in the same order as the ordinances were filed  
 25 with the ~~secretary of state~~ **commissioner** under section 9 of this  
 26 chapter.

27 (2) After all of the deposits have been made under subdivision  
 28 (1), then to county corrections funds of counties electing to  
 29 receive level 2 funding, prorated in accordance with the ratio the  
 30 amount due to a county corrections fund bears to the total amount  
 31 due all counties that elect to receive level 2 funding.

32 (3) After all deposits have been made under subdivisions (1) and  
 33 (2), then deposits to counties electing to receive level 1 funding  
 34 in accordance with the ratio the amount due to the corrections  
 35 fund of a county electing to receive level 1 funding bears to the  
 36 amount due to the corrections fund of all counties electing to  
 37 receive level 1 funding.

38 (c) Before July 16 of each year, the commissioner shall send a  
 39 notice to each county legislative body that has filed an ordinance under  
 40 section 9 of this chapter. The notice must contain the following:

41 (1) The amount of money appropriated for all county corrections  
 42 funds in Indiana.





(2) The amount that will be deposited in the county corrections funds for counties electing to receive level 3 funding under section 13 of this chapter.

(3) The balance of the appropriated amount that is available for deposits to county corrections funds for counties electing to receive level 1 and level 2 funding.

(d) The notice required under subsection (c) must be in the following form:

Notice Concerning County Corrections Funds

The amount appropriated  
for July 1 . . . to June 30 . . .  
for county corrections funds is . . . . . \$ . . . .

The amount obligated for  
level 3 funding for county  
corrections funds is . . . . . \$ . . . .

The amount available for  
level 2 and level 1 county  
corrections funds is . . . . . \$ . . . .

SECTION 82. IC 12-14-24-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. Any organization may apply to the division for certification as a youth service bureau. The division shall establish criteria for the certification of an organization as a youth service bureau, which must include the following requirements:

(1) The organization must be registered with the ~~secretary of state~~ **department of commerce** as a nonprofit corporation or must be an agency of a local governmental unit.

(2) The organization must develop and operate direct and indirect service programs designed to do the following:

(A) Support, represent, and protect the rights of young people.

(B) Prevent adolescent misbehavior and divert young people from the justice system.

(C) Maintain a referral system with other service agencies that might benefit young people.

(D) Inform and educate citizens about the functions and services available through the organization and serve as a link between the needs of youth and the community.

SECTION 83. IC 13-17-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) A rule adopted by the board under air pollution control laws that requires:

(1) certain motor vehicles registered in certain counties to undergo a periodic test of emission characteristics; and



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(2) vehicles failing the emissions test to be repaired and retested; applies to the vehicles registered in those counties subject to the rules. An exemption in the rules applies to motor vehicles registered in those counties subject to the rule.

(b) An inspection station authorized by a rule adopted by the board may:

(1) inspect any vehicle; and

(2) certify that the inspected vehicle meets air emission control standards established in the applicable rules.

(c) The department may contract with a person to conduct inspections to test the emissions or emission control devices of motor vehicles. If inspections are conducted by Ivy Tech State College, the inspections and testing shall be conducted under the direction of the department. The department may not enter into a contract with a foreign corporation under this section unless the foreign corporation is registered with the ~~secretary of state~~ **department of commerce** to do business in Indiana.

(d) The duration of a contract entered into under this section may not exceed ten (10) years.

(e) This section does not prohibit the board or the department from adopting fleet inspection procedures.

(f) IC 4-13.4-7-3 does not apply to a procurement under this section.

(g) This section expires July 1, 1998.

SECTION 84. IC 13-18-16-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 16. (a) A nonprofit water utility may adopt a resolution approved by its board of directors under this section that reconstitutes the nonprofit water utility as a water authority to be named as provided in the resolution.

(b) A resolution adopted under this section must allow:

(1) the structure of the board of directors; and

(2) the rules governing the water authority;

to remain the same as those applicable to the nonprofit water utility.

(c) The water authority shall retain all its powers as a nonprofit water utility under:

(1) its existing bylaws and articles; and

(2) all laws applicable to nonprofit water utilities and local water corporations.

(d) A water authority constituted under this section is a political subdivision of the state.

(e) A copy of a resolution adopted under this section must be filed with the ~~secretary of state~~ **department of commerce**. When the ~~secretary of state~~ **department of commerce** receives a copy of a



1 resolution under this subsection, the ~~secretary of state~~ **department of**  
 2 **commerce** shall dissolve the corporate status of the nonprofit water  
 3 utility for purposes of state law.

4 (f) A water authority constituted under this section shall:

5 (1) remain obligated under any existing contracts or agreements;  
 6 and

7 (2) remain obligated and assume the indebtedness;  
 8 of the nonprofit water utility.

9 SECTION 85. IC 13-20-6-6 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. An operator  
 11 who is not a resident of Indiana:

12 (1) shall post a surety bond with the department in an amount and  
 13 at a time that is:

14 (A) determined under rules adopted by the board; and

15 (B) necessary to ensure the collection and payment of any civil  
 16 penalties that the operator may be required to pay in Indiana  
 17 because of the solid waste transfer activities of the operator;  
 18 and

19 (2) is considered to appoint the ~~secretary of state~~ **attorney**  
 20 **general** as the operator's agent for purposes of service of process  
 21 in connection with any matter involving solid waste transfer  
 22 activities.

23 SECTION 86. IC 14-32-5-3.5 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3.5. (a) In an  
 25 action or proceeding that:

26 (1) relates to; or

27 (2) involves the validity or enforcement of;

28 a contract, proceeding, or action of a district, proof of the issuance of  
 29 a certificate of organization to the district by the ~~secretary of state~~  
 30 **department of commerce** creates a rebuttable presumption of the  
 31 establishment of the district under this article or IC 13-3-1 (before its  
 32 repeal).

33 (b) A copy of a certificate of organization that was issued to a  
 34 district and certified by the ~~secretary of state~~ **department of**  
 35 **commerce** is:

36 (1) admissible in evidence in an action or proceeding referred to  
 37 in subsection (a); and

38 (2) proof of the filing and contents of the certificate.

39 SECTION 87. IC 14-32-6.5-16 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 16. (a) Not more  
 41 than thirty (30) days after being appointed under section 15(a) of this  
 42 chapter, the two (2) appointed supervisors shall present to the ~~secretary~~



1 of state department of commerce the following:

2 (1) A notarized letter of application, signed by the two (2)  
3 appointed supervisors, for reorganization of the district as a  
4 governmental subdivision and a public body corporate and politic  
5 under this article.

6 (2) A copy of the original petition filed with the board.

7 (3) A copy of the certification by the board of the results of the  
8 election held on the local public question.

9 (4) A copy of the records of appointment by the board of the two  
10 (2) supervisors who signed the letter of application.

11 (b) The letter of application presented under subsection (a) must  
12 include the following:

13 (1) The name proposed for the district.

14 (2) A definition, by metes and bounds or by legal subdivisions, of  
15 the reconfigured boundaries of the district.

16 (3) A statement certifying that, upon notification by the ~~secretary~~  
17 ~~of state department of commerce~~ of the approval of the  
18 application, an existing district lying entirely within the  
19 boundaries of the newly reorganized district will terminate  
20 operation and cease to exist.

21 SECTION 88. IC 14-32-6.5-17 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. (a) After  
23 receiving, examining, and approving a letter of application and the  
24 accompanying documents that are presented under section 16 of this  
25 chapter, the ~~secretary of state department of commerce~~ shall do the  
26 following:

27 (1) Issue to the appointed supervisors a certificate of organization  
28 indicating that the district is reestablished with boundaries  
29 incorporating the territory defined in the notarized letter of  
30 application presented under section 16 of this chapter.

31 (2) Record the certificate of organization with the letter of  
32 application and accompanying documents in an appropriate  
33 record.

34 (3) Issue to the supervisors of any existing district lying entirely  
35 within the boundaries of the newly reestablished district a  
36 certificate of dissolution of the existing district.

37 (4) Record the certificate of dissolution in an appropriate record.

38 (b) On the date the ~~secretary of state department of commerce~~  
39 issues the certificates required by subsection (a):

40 (1) all property and responsibilities of any existing district lying  
41 entirely within the boundaries of the newly reestablished district  
42 are assumed by the reestablished district; and



(2) any existing district lying entirely within the boundaries of the newly reestablished district ceases to exist.

SECTION 89. IC 14-32-6.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 18. (a) After the ~~secretary of state~~ **department of commerce** issues a certificate of organization to the supervisors of a newly reestablished district under section 17 of this chapter, the board shall, when appropriate, circulate petitions for the nomination of candidates for the three (3) elected supervisor positions of the reestablished district. The petitions must be filed with the board not more than sixty (60) days after the ~~secretary of state~~ **department of commerce** issues the certificate of organization. However, the board may extend the time within which the petitions may be filed.

(b) To be valid, a nominating petition must meet the following conditions:

- (1) The candidate named on the petition must meet the qualifications for elected supervisors set forth in IC 14-32-4-1(b).
- (2) The petition must be signed by at least twenty-five (25) land occupiers whose tracts of land are located within the district.

(c) A land occupier may sign more than one (1) petition to nominate more than one (1) candidate.

(d) Not more than thirty (30) days after receiving at least four (4) valid nominating petitions, the board shall do the following:

- (1) Give due notice that an election, by secret ballot, will be held to elect the three (3) supervisors of the newly reestablished district.
- (2) Prescribe appropriate procedures for the conduct of the election and the determination of the eligibility of voters.
- (3) Supervise the conduct of the election.
- (4) Publish the results of the election.
- (5) Pay all expenses arising from the issuance of notices and the holding of the election.

SECTION 90. IC 14-32-6.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 22. (a) To proceed with the dissolution of a district under section 14(b) of this chapter in accordance with the results of an election, the supervisors of the district, upon notification of the results of the election, shall do the following:

- (1) Begin immediately to terminate the affairs of the district.
- (2) Dispose of all property belonging to the district at public auction and pay over the proceeds of the sale into the state treasury.

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(3) File with the ~~secretary of state~~ **department of commerce** a notarized letter of application for dissolution of the district that:

(A) recites that the property of the district has been disposed of and the proceeds of the sale paid over as required by this section; and

(B) sets forth a full accounting of the property and proceeds of the sale.

(4) Transmit with the letter of application a copy of the certification by the board of the results of the election on the local public question of whether to dissolve the district.

(b) Upon receipt, examination, and approval of the letter of application and accompanying required document, the ~~secretary of state~~ **department of commerce** shall do the following:

(1) Issue to the supervisors a certificate of dissolution.

(2) Record the certificate with the letter of application and accompanying required document in an appropriate record.

SECTION 91. IC 14-38-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. The ownership, operation, or other interest by a nonresident or by a nonresident's authorized agent in a test hole in Indiana is considered equivalent to an appointment by the nonresident of the ~~secretary of state~~ **attorney general** to be the nonresident's attorney, upon whom may be served all process in an action or a proceeding growing out of the operation or ownership by the nonresident or the nonresident's agent of a test hole in Indiana. The operation or ownership indicates the nonresident's agreement that the process served against the nonresident is of the legal force and validity as if served upon the nonresident personally, unless the nonresident maintains on file with the commission the designation of a resident agent for service of process.

SECTION 92. IC 14-38-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. (a) An action against a nonresident may be filed in the county:

(1) of residence of the plaintiff; or

(2) where the test hole is located;

at the election of the plaintiff.

(b) Service of process shall be made by leaving a copy of the process, with a fee of two dollars (\$2) for the defendant to be served, with the ~~secretary of state~~ **attorney general**. The service is sufficient service upon a nonresident if:

(1) notice of the service and a copy of the process are immediately sent by registered mail to the defendant; and

(2) the defendant's return receipt is appended to the original

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process and filed in court.

(c) If the defendant refuses to accept or claim registered mail, the ~~secretary of state~~ **attorney general** shall return the registered mail to the plaintiff or to the plaintiff's attorney. The registered mail shall be appended to the original process, together with an affidavit of the plaintiff or the plaintiff's attorney or agent to the effect that the summons was:

(1) delivered to the ~~secretary of state~~, **attorney general** together with a fee of two dollars (\$2); and

(2) returned unclaimed by the United States Postal Service.

(d) The affidavit, together with the returned envelope and the summons, is considered sufficient service upon the nonresident defendant.

(e) The court in which the action is brought may order continuances that are reasonable to afford the defendant an opportunity to defend the action.

SECTION 93. IC 15-1-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. Every such association shall file its articles in the recorder's office of the county in which such association may be formed, and, upon the expenses of filing and recording being paid, the recorder shall record the same in the miscellaneous book of records in his office, and such record, or a certified copy thereof, shall be conclusive evidence of the matters and things therein recited. A duplicate of this article must be filed with the ~~secretary of state~~ **department of commerce**.

SECTION 94. IC 15-1-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. Associations of persons for horticultural purposes, whether state, district or county associations, may become incorporated in the manner following: An association of persons, known as a State Horticultural Society, may become incorporated by depositing ~~in with the office~~ **department of the secretary of state commerce** a certified copy of the articles of association, with the name assumed, and a description and an impress of the seal adopted by such association. An association of persons, known as a district or county horticultural association, may become incorporated by depositing in the office of the recorder of the county where such association is organized a statement, under the seal of a state horticultural association, showing that such district or county association was organized for horticultural purposes, and is entitled to representation in such state horticultural association at its annual and official meetings, and that such district or county association has consented to elect at least one (1) delegate to represent such association



1 in the annual and official meetings of such state horticultural society,  
 2 and, at the same time, deposit in said office the name by which said  
 3 association shall be known, with a description of the seal adopted;  
 4 which statement, so deposited with such recorder, shall be, by him,  
 5 recorded in the miscellaneous record, for which he may charge and  
 6 collect the sum of fifty cents (50 cents); and, thereupon, such state,  
 7 district or county horticultural association, by the name they shall  
 8 assume, shall become bodies corporate and politic, with perpetual  
 9 succession, and may, by such name, sue and be sued, contract and be  
 10 contracted with, plead and be impleaded, and may take, hold and  
 11 convey real and personal property, and may make all such by-laws,  
 12 rules and regulations for the government of such associations, and the  
 13 management of their affairs and property, as to them may seem best,  
 14 not inconsistent with the laws of this state.

15 Such associations may each purchase, improve or sell, not  
 16 exceeding, at any one time, one hundred (100) acres of land, for the  
 17 uses and purposes of such association, and may erect thereon such  
 18 buildings as they may deem proper for the use of such association and  
 19 the improvement of said land.

20 SECTION 95. IC 15-2.1-17-2 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. ~~Nonresident~~  
 22 ~~Consent to Service of Process~~. Each nonresident applicant for a license  
 23 under this article, except a foreign corporation, must file with the board  
 24 an irrevocable consent that actions against the applicant may be filed  
 25 in any appropriate court of any county or municipality of this state in  
 26 which the plaintiff resides, or in which some part of the transaction  
 27 occurred out of which the alleged cause of action arose, and that  
 28 process in any action may be served on the applicant by leaving two (2)  
 29 copies of any complaint or pleadings filed in any court of the state of  
 30 Indiana thereof with the board. Such consent shall stipulate and agree  
 31 that such service of process shall be taken and held to be valid and  
 32 binding for all purposes. The board shall send forthwith one (1) copy  
 33 of such process to the applicant at the address shown on the records of  
 34 the board by registered mail. No foreign corporation shall receive a  
 35 license under this chapter until it has been authorized to do business in  
 36 ~~this state Indiana~~ by the ~~secretary of state~~. **department of commerce**.

37 SECTION 96. IC 15-3-7-6 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. The association  
 39 shall, either before or after the election of directors, cause their articles  
 40 of association to be filed ~~in with the office department of the secretary~~  
 41 ~~of state commerce~~ and shall also cause to be recorded in the recorder's  
 42 office of each county in which any part of the proposed horticultural

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and quarantine district may be situated a duplicate copy of such articles of association, and thereafter such association shall be a body politic and corporate, by the name and style so adopted, and shall have and possess all the rights, powers and privileges given to corporations, to sue and be sued, plead and be pleaded, answer and be answered, in any court of competent jurisdiction, borrow money and levy assessments upon the owners of the lands, orchards and trees and other fruit-bearing plants situated therein, as hereinafter provided, and to rent, lease, purchase, hold, sell and convey such personal property as may be necessary and proper for the purposes and objects of the corporation. A majority of the members of such association shall have the power to adopt by-laws for the government of such horticultural and quarantine district and make such rules as may be necessary to carry the same into force and effect.

SECTION 97. IC 15-5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. Associations of persons for the advancement of the agricultural interests of the state, known as the State Corn Growers' Association, the State Live Stock Breeders' Association and the State Dairymen's Association, may become incorporated in the following manner: An association of persons known as the State Corn Growers' Association, the State Live Stock Breeders' Association or the State Dairymen's Association may become incorporated by depositing ~~in~~ **with the office department of the secretary of state commerce** a certified copy of the articles of the association, with the name assumed and a description and impress of the seal adopted by such association.

SECTION 98. IC 15-7-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) The incorporators of an association to be formed under this chapter shall execute and file articles of incorporation setting forth **the following**:

- (1) The name of the proposed association.
- (2) The purpose ~~of~~ **or** purposes for which it is formed.
- (3) The period during which it is to continue to exist, if the period is to be limited.
- (4) The post office address of its principal office and the name and post office address of its resident agents.
- (5) If organized without capital stock, whether the property rights and interest of the members are to be equal or unequal; and if unequal, provisions under and by which the property rights and interests of the respective members are to be determined and fixed.
- (6) If organized with capital stock, the total number of shares



which the association shall have authority to issue; whether all or part thereof shall have a par value, and if so, the number and par value of such shares; and whether all or part thereof shall be without par value, and if so, the number of such shares; if the shares are to be divided into classes or kinds, the number and par value, if any, of the shares of each class and, subject to the limitations provided in this chapter with respect to issuance of voting stock, either a statement of the relative rights, preferences, limitations and restrictions of each class, or a provision expressly vesting authority in the board of directors, to determine the relative rights, preferences, limitations and restrictions of each class by resolution or resolutions adopted prior to the issuance of any shares of such class; and if the shares of any class are to be issuable in series, descriptions of the several series, and subject to the limitation provided in this chapter with respect to the issuance of voting stock, a statement of the relative rights, preferences, limitations and restrictions of each series, or a provision expressly vesting authority in the board of directors to determine the relative rights, preferences, limitations and restrictions of each series by resolution or resolutions adopted prior to the issuance of any of the shares of such series.

(7) The number of directors constituting the initial board of directors of the association.

(8) The names and post office addresses of the first board of directors.

(9) The names and post office addresses of the incorporators. ~~and~~

(10) Any other provisions, consistent with the laws of this state, for the regulation of the business and conduct of the affairs of the association, and for the purpose of creating, defining, limiting or regulating the powers of the association, of the directors, of the members, and of the shareholders of any class or classes of shareholders.

The articles of incorporation shall be prepared and signed in duplicate by the incorporators and acknowledged by at least one (1) of them before a notary public, and shall be presented in duplicate to the ~~secretary of state at his office;~~ **department of commerce** accompanied by the fees prescribed by this chapter.

(b) Upon presentation of the articles of incorporation, if the ~~secretary of state~~ **department of commerce** finds that they conform to law, ~~he the department~~ shall endorse ~~his~~ **its** approval upon the duplicate copies of the articles, and, when all fees have been paid as required by law, shall file one (1) copy of the articles in ~~his office~~ **the**



1 **department** and issue a certificate of incorporation to the  
 2 incorporators. The certificate of incorporation, together with the  
 3 remaining copy of the articles of incorporation bearing the endorsement  
 4 of his approval, shall be returned by him to the incorporators or their  
 5 representative.

6 (c) Upon the issuance of the certificate of incorporation by the  
 7 ~~secretary of state~~ **department of commerce** the corporate existence  
 8 of the association shall begin and all subscriptions to membership  
 9 and/or for shares of the association shall be deemed to be accepted by  
 10 the association, and the subscribers shall be deemed to be members  
 11 and/or shareholders of the association. The certificate of incorporation  
 12 issued by the ~~secretary of state~~ **department of commerce** shall be  
 13 conclusive evidence of the fact that the association has been duly  
 14 incorporated and of its right to transact business and to incur  
 15 indebtedness.

16 SECTION 99. IC 15-7-1-11 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 11. (a) The  
 18 business and affairs of the association shall be managed by a board of  
 19 directors of not less than five (5) directors. Subject to such limitation,  
 20 unless otherwise provided in the articles of incorporation, the number  
 21 of directors shall be as fixed by the bylaws, except as to the number  
 22 constituting the initial board of directors, which number shall be fixed  
 23 by the articles of incorporation. The number of directors may be  
 24 increased or decreased from time to time by amendment to the bylaws,  
 25 but no decrease shall have the effect of shortening the term of an  
 26 incumbent director. In the absence of articles of incorporation or  
 27 bylaws which fix the number of directors, the number shall be the same  
 28 as stated in the articles of incorporation for the initial board of  
 29 directors.

30 (b) The directors, except as herein otherwise provided, shall be  
 31 elected by the members at the annual meeting of the members and may,  
 32 if so provided in the bylaws, be elected for terms of office that expire  
 33 at different times, but no term of office shall continue for longer than  
 34 three (3) years. In the absence of any such provision in the bylaws, each  
 35 director, except the first board of directors, shall be elected for a term  
 36 of one (1) year and hold office until his successor is elected and  
 37 qualified. The first board of directors as named in the articles of  
 38 incorporation shall hold office until the first annual meeting of the  
 39 members.

40 (c) The territory served by an association may be divided into  
 41 districts and the directors elected according to districts. In such case,  
 42 the bylaws shall specify the number of directors to be elected in each



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1 district, the manner and method of reapportioning the directors and of  
 2 redistricting the territory served by the association. The bylaws may  
 3 provide that primary elections be held in each district to elect the  
 4 directors apportioned to such district and that the result of all such  
 5 primary elections may be ratified by the members at the next annual or  
 6 special meeting of the members of the association or may be  
 7 considered as final.

8 (d) One (1) or more directors may be appointed by any public  
 9 official or commission or by the other directors elected by the members  
 10 or their delegates. Such directors shall represent primarily the interest  
 11 of the general public in the association but shall have the same powers  
 12 and rights as other directors. Such directors shall not number more than  
 13 one-fifth (1/5) of the entire number of directors.

14 (e) An association may provide a fair remuneration for the time  
 15 actually spent by its officers and directors in its service and for the  
 16 service of the members of its executive and other committees. No  
 17 director during the term of his office, shall be a party to a contract for  
 18 profit with the association differing in any way from the business  
 19 relations accorded other members or patrons of the association.

20 (f) If the bylaws provide for an executive committee all of the  
 21 functions and powers of the board of directors may be delegated to  
 22 such committee, subject to the general direction and control of the  
 23 board.

24 (g) When a vacancy on the board of directors occurs, other than by  
 25 expiration of term of office, the remaining members of the board may  
 26 fill the vacancy by a majority vote of such remaining members, unless  
 27 the bylaws provide for the election of directors by districts. In such  
 28 case, the board of directors may call a special meeting of the members  
 29 in that district to fill the vacancy or may fill such vacancy as in the case  
 30 of any other vacancy. A director who is elected or appointed by the  
 31 board of directors to fill a vacancy on the board shall serve until the  
 32 next annual or special meeting of the members.

33 (h) Each director shall, during his term of office, be a citizen of the  
 34 United States; and each director, other than a public director, shall be  
 35 engaged or have a direct interest in the production of agricultural  
 36 products.

37 (i) An association may provide in its bylaws that no person shall be  
 38 eligible for election as a director unless he is a member or a patron of  
 39 the association.

40 (j) An association may provide in its bylaws that no person shall be  
 41 eligible for election as a director unless and until he has first paid any  
 42 indebtedness owed by him to the association.



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(k) The board of directors shall require that a report be presented to the board, at such intervals as it may determine and fix, but not less often than semi-annually, showing the amount of indebtedness ~~owned~~ **owed** to the association by each director, officer and employee at the close of such period, the amount of stock, membership capital, or credits for the purchase of stock or membership capital shown on the books of the association as belonging to such debtor, and take such action with respect to any individual indebtedness to the association which is larger than permitted by the bylaws as shall be best for the association in the sound discretion of the board. The board of directors shall also require a record of attendance to be kept, and shall require the secretary to make a report at the annual meeting of members covering the directors' attendance up to and including the last directors' meeting prior to the annual meeting showing the number of regular and special meetings of the board, and the number of regular and of special meetings attended by each member of the board designated by name.

(l) An association may provide in its bylaws limits within which the association may extend credit, either directly or indirectly, to any director, officer, or employee of the association.

(m) A person who is a director, officer or employee of the association may not be extended credit upon terms which are more favorable than the terms available to any other customer or member of the association.

(n) The provisions of this chapter respecting the extension of credit to any director, officer, or employee; requiring the inclusion of such information in the association's annual reports to the ~~secretary of state;~~ **department of commerce** and providing penalties for failure to comply therewith shall apply only to associations more than twenty-five percent (25%) of the gross income of which arises directly from the purchasing of supplies for their members and others. Any association with a lesser percentage of gross income arising from purchasing of supplies may adopt such provision in its articles of incorporation as originally filed or later amended. When so adopted, such provisions shall apply in every respect to such association and to its directors, officers and employees.

SECTION 100. IC 15-7-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13. (a) No certificate of membership or share or shares of voting stock shall be issued by an association until the membership fee or consideration for such share or shares has been paid in full, but ~~promisory~~ **promissory** notes may be accepted in full or partial payment thereof. When a note is accepted in full or partial payment for a share of stock or

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1 membership fee, the stock or membership certificate shall be held as  
 2 security for the payment of such note. The acceptance of a note in full  
 3 or partial payment of a share of stock or membership fee shall not  
 4 affect the member's right to vote so long as he is not in default under  
 5 the terms of said note.

6 (b) No members shall be liable for the debts of the association to an  
 7 amount exceeding the sum remaining unpaid on his membership fee or  
 8 on his subscription or agreement to purchase a share or shares of stock,  
 9 including any unpaid balance on any note given in payment thereof.

10 (c) An association may provide in its articles of incorporation or  
 11 bylaws that no member may own more than a fixed amount or  
 12 percentage of its membership capital or a fixed percentage or number  
 13 of shares of its outstanding voting stock.

14 (d) An association may provide in its articles of incorporation or  
 15 bylaws that no member shall be entitled to more than one (1) vote  
 16 regardless of the amount of capital invested in or number of shares of  
 17 voting stock owned by such member.

18 (e) The voting stock of or membership in an association shall not be  
 19 transferred to persons or associations who or which are not qualified to  
 20 be members of an association organized or brought hereunder, and  
 21 such restriction shall be set forth on every membership certificate and  
 22 certificate of voting stock.

23 (f) The net earnings or savings of an association from its marketing  
 24 and/or purchasing activities which are in excess of amounts needed to  
 25 restore a deficit, to pay dividends on outstanding stock, or to establish  
 26 or provide for additions to reserves or surplus, or both, shall be  
 27 distributed, unless otherwise provided by the bylaws, to the patrons of  
 28 the association on a patronage basis. If so provided in the bylaws, the  
 29 distribution of the net earnings or savings from the marketing and/or  
 30 purchasing activities which are in excess of amounts needed to restore  
 31 a deficit, to pay dividends on outstanding stock, or to establish or  
 32 provide for additions to reserves or surplus, or both, may be made at  
 33 different rates for members and nonmembers, or may be restricted only  
 34 to members, or only to members and those patrons with whom the  
 35 association has contracted to pay patronage refunds, but in any event  
 36 all such distributions shall be made on a patronage basis.

37 (g) If the reserves or surplus of an association are distributed at any  
 38 time, they shall be distributed on a patronage basis as provided by the  
 39 bylaws of the association.

40 (h) An association organized with capital stock may, at any time,  
 41 unless otherwise provided in its articles of incorporation or bylaws, and  
 42 except when the debts of the association exceed fifty percent (50%) of

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the assets, redeem, purchase or otherwise acquire its outstanding common stock at the book value thereof, as conclusively determined by its board of directors, but not to exceed par, and pay for it in cash within one (1) year thereafter.

(i) An association organized with capital stock may, at any time, unless otherwise provided in its articles of incorporation or bylaws, redeem, purchase or otherwise acquire its outstanding preferred stock; provided, however, that in no event shall an association redeem or purchase its outstanding preferred stock when it is insolvent or when such redemption or purchase would render it insolvent, or would reduce the net assets of the association below the aggregate amount payable to the holders of stock having prior or equal rights to the assets of the association upon involuntary dissolution.

(j) Whenever the board of directors of an association, pursuant to authority expressly vested in such board by the articles of incorporation, shall, by resolution, determine and state the relative rights, preferences, limitations or restrictions of any class or classes of shares, or of any series of any class or classes, the association before it shall have the right to issue any of such shares, shall present in duplicate ~~in with the office department of the secretary of state,~~ **commerce**, accompanied by the fees prescribed by this chapter, a certificate signed by the secretary or assistant secretary, and verified under oath by the president or a vice-president of the association, setting forth the resolution so adopted and the time and manner of its adoption.

(k) Upon presentation of such certificate, the ~~secretary of state,~~ **department of commerce** if ~~he the department~~ finds that it conforms to law and the articles of incorporation of such association, shall endorse ~~his the department's~~ approval on each copy thereof, and when all fees have been paid as required by law, shall file one (1) copy of the certificate ~~in his office with the department~~ and issue ~~his a~~ certificate of approval and filing, and forward to the association ~~his the~~ certificate, together with the other copy of the certificate of the officers of the association bearing the ~~endorsement of his department's~~ approval, and the association shall have the authority to issue such shares from and after the issuance ~~by the secretary of state of such the~~ certificate.

SECTION 101. IC 15-7-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 18. (a) During the month of April of every other year, each association organized or reorganized under this chapter shall prepare and file a biennial report setting forth the following information:

(1) The name of the association and the state or country under



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whose law the association is incorporated.

(2) The address of the ~~association's~~ **association's** registered office and the name of the association's registered agent at that office in Indiana.

(3) The address of the association's principal office.

(4) The names and business or residence addresses of the association's directors, secretary, and highest executive officer.

(b) The biennial report of each association must be:

(1) made on a form prescribed and furnished by the ~~secretary of state;~~ **department of commerce;**

(2) signed by any current officer of the association or, in case the association is in the hands of a receiver or a trustee, by the receiver or trustee;

(3) verified and affirmed subject to the penalties for perjury; and

(4) filed ~~in with the office~~ **department of the secretary of state;** **commerce** accompanied by the fees prescribed by law.

(c) Information in the biennial report must be current as of the date the biennial report is executed on behalf of the association.

(d) The first biennial report of the association must be delivered to the ~~secretary of state~~ **department of commerce** in the second year following the calendar year in which the association was organized. Subsequent biennial reports must be delivered to the ~~secretary of state~~ **department of commerce** every second year following the year in which the last biennial report was filed.

(e) If, upon receipt of such report, the ~~secretary of state~~ **department of commerce** determines or has reason to believe that the association filing the report is not disclosing its true financial condition or is violating any of the provisions of this chapter, ~~he~~ **the department** may require the association to disclose all material facts by:

(1) submitting a duly verified audit bearing the certificate under oath of a qualified public accountant approved by the ~~secretary of state;~~ **department of commerce;**

(2) replying to interrogatories; or

(3) reporting under oath on any matters requested by the ~~secretary of state;~~ **department of commerce.**

(f) An officer or director of an association who knowingly distributes, publishes, or files with the ~~secretary of state~~ **department of commerce** any written reports, certificate, or statement of the condition or business of the association that is false in any material respect commits a Class D felony.

SECTION 102. IC 15-7-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 29. The ~~secretary~~

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1 of state **department of commerce** shall charge and collect, for the  
 2 benefit of the state, to be paid to the general fund of the state of  
 3 Indiana, the following fees: to wit:

4 (a) (1) For filing with the secretary of state the articles of  
 5 incorporation of any association organized or corporation  
 6 reorganized under this chapter, which provides for the issuance of  
 7 membership certificates only, and not for certificates of stock, five  
 8 dollars (\$5).

9 (b) (2) For filing with the secretary of state articles of  
 10 incorporation of any association organized or any corporation  
 11 reorganized under this chapter, which provides for the issue of  
 12 capital stock, not in excess of five thousand dollars (\$5,000) of  
 13 par value, five dollars (\$5). If the capital stock authorized to be  
 14 issued by any such association shall exceed five thousand dollars  
 15 (\$5,000), one cent (\$0.01) for each one hundred dollars (\$100) of  
 16 additional par value.

17 (c) (3) For filing with the secretary of state a certificate of  
 18 increase of capital stock of any association for an increase of not  
 19 more than five thousand dollars (\$5,000) of par value, five dollars  
 20 (\$5), and for each one hundred dollars (\$100) of par value of  
 21 increase above such amount, one cent (\$0.01).

22 (d) (4) For filing with the secretary of state any certificate not  
 23 herein specified, five dollars (\$5) each, regardless of the number  
 24 of amendments contained in said certificate, except increases of  
 25 capital stock upon which the fee shall be as hereinbefore  
 26 provided.

27 (e) (5) For filing biennial or special reports of associations, two  
 28 dollars (\$2) for each filing, which shall be in addition to any and  
 29 all other fees herein specified. The biennial report filing fee is one  
 30 dollar (\$1) per year, to be paid biennially.

31 (f) (6) For filing designation of or change of resident agent for any  
 32 association, one dollar (\$1).

33 (g) (7) For each certificate issued by the secretary of state,  
 34 department of commerce one dollar (\$1), and for each  
 35 impression of the great seal of the state of Indiana, affixed by him  
 36 on said the certificate, fifty cents (\$0.50).

37 SECTION 103. IC 15-7-1-30 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 30. Any nonprofit  
 39 cooperative association organized before or after March 12, 1935,  
 40 under the agricultural cooperative law of any state of the United States  
 41 other than Indiana and not admitted to do business in this state before  
 42 March 12, 1935, before transacting any business in this state shall



1 present to the ~~secretary of state at his office,~~ **department of commerce**  
 2 accompanied by the fees hereinafter prescribed, a copy of its articles of  
 3 incorporation, with all amendments thereto, duly authenticated by the  
 4 proper officer of the state wherein it is incorporated, together with an  
 5 application for admission which shall contain the same information as  
 6 required in the articles of incorporation of an association seeking to be  
 7 incorporated under this chapter, together with such further information  
 8 as the ~~secretary of state~~ **department of commerce** may require, which  
 9 shall include a statement of assets and liabilities as of a date not earlier  
 10 than thirty (30) days prior to the filing of said application for  
 11 admission, which information shall be submitted in triplicate originals  
 12 upon such forms as may be prescribed by the ~~secretary of state;~~  
 13 **department of commerce**. Such application shall be signed and  
 14 verified under oath by the president or vice president and secretary or  
 15 assistant secretary of the association. The fees aforementioned in this  
 16 section shall be the same fees which would be required if the applicant  
 17 were seeking to be incorporated under this chapter, except that any fee  
 18 calculated upon the basis of capital or capital stock shall be calculated  
 19 upon the proportion of the same represented in this state; provided that  
 20 such fee shall not be less than ten dollars (\$10).

21 SECTION 104. IC 15-7-1-31 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 31. Upon the  
 23 presentation of the application for admission, the ~~secretary of state,~~  
 24 **department of commerce**, if he finds that the same application  
 25 conforms to law and that all patrons of such association who reside in  
 26 Indiana will be entitled to receive substantially the same rights,  
 27 benefits, and privileges therefrom as though the said association were  
 28 incorporated under this chapter, shall ~~indorse his~~ **indicate** approval  
 29 upon each of the triplicate copies, and, when all fees required by law  
 30 shall have been paid, shall file one (1) copy of the application, together  
 31 with an authenticated copy of the articles of incorporation of the  
 32 association, ~~in his office,~~ **with the department** and shall issue to the  
 33 association an original and a duplicate certificate of admission,  
 34 accompanied by two (2) copies of the application bearing the  
 35 ~~indorsement of his~~ approval, which certificate shall set forth the  
 36 following:

- 37 (1) The name of the association, the state where it was
- 38 incorporated, and the location of its principal office in such state.
- 39 (2) The character of business it is authorized to transact in this
- 40 state.
- 41 (3) The amount of its authorized capital stock, if any, and the
- 42 amount thereof issued and outstanding.



(4) The amount of fee paid for its admission.

(5) The address of the corporation in this state.

(6) The name and address of its resident agent in this state for service of legal process.

SECTION 105. IC 15-7-1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 32. Any nonprofit cooperative association organized ~~before or after March 12, 1935~~, under the agricultural cooperative law of any state ~~of the United States~~ other than Indiana and admitted to do business in Indiana: ~~before or after March 12, 1935~~:

(1) shall have authority to transact in this state the business set forth in the certificate of such admission issued to it ~~by the secretary of state~~; **under this chapter**; and

(2) shall:

(A) have the same rights, privileges, powers, and remedies at law or in equity; ~~possessed on March 12, 1935, by or conferred after March 12, 1935, upon~~; and

(B) be subject to the same liabilities, restrictions, duties, and penalties; ~~in effect on March 12, 1935, or imposed after March 12, 1935, upon~~;

**as** associations incorporated under this chapter.

SECTION 106. IC 20-12-21.2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. Notwithstanding IC 26-1-9-302(1)(a), a security interest in education loans is perfected by:

(1) possession under IC 26-1-9-305; or

(2) filing a financing statement ~~in with the office department of the secretary of state~~ **financial institutions** under IC 26-1-9-401, IC 26-1-9-402, or IC 26-1-9-403.

SECTION 107. IC 20-12-23-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 47. In case of a sale of any such lands to any person for cash, on the production of the treasurer's receipt for the purchase money, the auditor shall give to the purchaser a certificate, which shall entitle him to a deed for said land, to be executed by the governor ~~of this state~~, and recorded in the **state land** office. ~~of the secretary of state~~.

SECTION 108. IC 20-12-23-59 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 59. Patents for land sold shall be made by the governor and recorded in the **state land** office. ~~of the secretary of state~~.

SECTION 109. IC 23-1-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) After July



31, 1987, this article applies to all domestic corporations in existence on July 31, 1987, that were incorporated under IC 23-1-1 through IC 23-1-12 (repealed August 1, 1987) or any other prior law. It also applies to all corporations incorporated under IC 23-1-21.

(b) Before August 1, 1987, the provisions of IC 23-1-18 through IC 23-1-54 do not apply to any domestic corporation, except in accordance with the following:

(1) The corporation's board of directors must adopt a resolution electing to have IC 23-1-18 through IC 23-1-54 (except for IC 23-1-18-3, IC 23-1-21, and IC 23-1-53-3) apply to the corporation.

(2) The resolution must specify a date (after March 31, 1986, and before August 1, 1987) on and after which those provisions will apply to the corporation.

(3) The resolution must be filed ~~in with the office of the secretary of state~~ **department** before the date specified under subdivision (2).

(c) The provisions of IC 23-1-18 through IC 23-1-54 (except for IC 23-1-18-3, IC 23-1-21, and IC 23-1-53-3) apply to each domestic corporation that complies with all the conditions prescribed by subsection (b). In addition, such a corporation shall continue to comply with the requirements of IC 23-1-8 and IC 23-3-2 until August 1, 1987, but it is not subject to the provisions of IC 23-1-1 through IC 23-1-7, IC 23-1-9 through IC 23-1-12, IC 23-3-1, and IC 23-3-9.

(d) The provisions of IC 6-8.1-10-9 and IC 22-4-32-23 apply to the officers and directors of each domestic corporation that complies with all the conditions prescribed by subsection (b). In addition, such a corporation is not subject to the provisions of IC 6-8.1-10-8 and IC 22-4-32-22.

(e) After a corporation becomes subject to IC 23-1-18 through IC 23-1-54, all references in the articles of incorporation of the corporation to the former Indiana General Corporation Act (IC 23-1-1 through IC 23-1-12) (repealed August 1, 1987) shall be considered to refer to the Indiana Business Corporation Law (IC 23-1-17 through IC 23-1-54), unless otherwise determined by resolution of the board of directors. Whenever the board of directors adopts such a resolution, it shall be filed ~~in with the office of the secretary of state~~ **department**.

SECTION 110. IC 23-1-17-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3.1. (a) This article applies to a domestic railroad corporation incorporated before July 1, 1990, if:

(1) the corporation's board of directors adopts a resolution



electing to have this article apply to the corporation;

(2) the resolution specifies the date this article will apply to the corporation; and

(3) the resolution is filed ~~in with the office of the secretary of state~~ **department** before the date specified under subdivision (2).

(b) The following do not apply to a railroad corporation incorporated under this article:

(1) IC 8-4-1-1 through IC 8-4-1-12.

(2) IC 8-4-2 through IC 8-4-6.

(3) IC 8-4-8.

(4) IC 8-4-11-1.

(5) IC 8-4-12-6.

(6) IC 8-4-13 through IC 8-4-14.

(7) IC 8-4-16.

(8) IC 8-4-21 through IC 8-4-22.

(9) IC 8-4-24.

(c) Unless otherwise specified in a resolution described under subsection (a), a reference to a statute listed under subsection (b) that is contained in the articles of association of a railroad corporation incorporated under this article shall be treated as a reference to the Indiana Business Corporation Law (IC 23-1).

(d) A reference in a statute, other than a statute listed under subsection (b), to a railroad incorporated under a statute listed under subsection (b) shall be considered to include a railroad corporation to which this article applies.

SECTION 111. IC 23-1-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the ~~secretary of state.~~ **department.**

(b) This article must require or permit filing the document ~~in with the office of the secretary of state.~~ **department.**

(c) The document must contain the information required by this article. It may contain other information as well.

(d) The document must be typewritten or printed, legible, and otherwise suitable for processing.

(e) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(f) The document must be executed:



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(1) by the chairman of the board of directors of the domestic or foreign corporation or by any of its officers;

(2) if directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) if the corporation is in the hands of a receiver, trustee, or other court appointed fiduciary, by that fiduciary.

(g) The person executing the document shall sign it and state beneath or opposite the signature the person's name and the capacity in which the person signs. A signature on a document authorized to be filed under this article may be a facsimile. The document may but is not required to contain:

(1) the corporate seal;

(2) an attestation by the secretary or an assistant secretary; and

(3) an ~~acknowledgement~~, **acknowledgment**, verification, or proof.

(h) If the ~~secretary of state~~ **department** has prescribed a mandatory form for the document under section 2 of this chapter, the document must be in or on the prescribed form.

(i) The document must be delivered to the ~~office of the secretary of state~~ **department** for filing as described in section 1.1 of this chapter and the correct filing fee must be paid in the manner and form required by the ~~secretary of state~~ **department**.

(j) The ~~secretary of state~~ **department** may accept payment of the correct filing fee by credit card, debit card, charge card, or similar method. However, if the filing fee is paid by credit card, debit card, charge card, or similar method, the liability is not finally discharged until the ~~secretary of state~~ **department** receives payment or credit from the institution responsible for making the payment or credit. The ~~secretary of state~~ **department** may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the ~~secretary of state~~ **department** or charged directly to the ~~secretary of state's~~ **department's** account, the ~~secretary of state~~ **department** or the credit card vendor may collect from the person using the bank or credit card a fee that may not exceed the highest transaction charge or discount fee charged to the ~~secretary of state~~ **department** by the bank or credit card vendor during the most recent collection period. This fee may be collected regardless of any agreement between the bank and a credit card vendor or regardless of any internal policy of the credit card vendor that may prohibit this type of fee. The fee is a permitted additional charge under IC 24-4.5-3-202.

SECTION 112. IC 23-1-18-1.1 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1.1. (a) For  
 2 purposes of this article, except for a biennial report filed under  
 3 IC 23-1-53-4, a document is delivered for filing if the document is  
 4 transferred to the ~~secretary of state~~ **department** by hand, mail,  
 5 telecopy, facsimile, or other form of electronic transmission meeting  
 6 the requirements established by the ~~secretary of state~~ **department**.

7 (b) If a document is delivered for filing by hand or mail, the  
 8 document must be accompanied by:

9 (1) two (2) exact or conformed copies of a document filed under  
 10 IC 23-1-24-3 or IC 23-1-49-9; or

11 (2) one (1) exact or conformed copy of any other document filed  
 12 under this article.

13 (c) The ~~office of the secretary of state~~ **department** shall create any  
 14 copies of a document delivered by telecopy, facsimile, or other form of  
 15 electronic transmission that are required for distribution under this  
 16 article.

17 SECTION 113. IC 23-1-18-2 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) The  
 19 ~~secretary of state~~ **department** may prescribe and furnish on request  
 20 forms for:

21 (1) a foreign corporation's application for a certificate of authority  
 22 to transact business in this state;

23 (2) a foreign corporation's application for a certificate of  
 24 withdrawal; and

25 (3) the biennial reports.

26 If the ~~secretary of state~~ **department** requires and the form so states, use  
 27 of these forms is mandatory.

28 (b) The ~~secretary of state~~ **department** may prescribe and furnish on  
 29 request forms for other documents required or permitted to be filed by  
 30 this article but their use is not mandatory.

31 SECTION 114. IC 23-1-18-3 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) The  
 33 ~~secretary of state~~ **department** shall collect the following fees when the  
 34 documents described in this subsection are delivered to the ~~secretary~~  
 35 ~~of state~~ **department** for filing:

	Document	Fee
36		
37	(1) Articles of incorporation . . . . .	\$90
38	(2) Application for use of	
39	indistinguishable name . . . . .	\$20
40	(3) Application for reserved name . . . . .	\$20
41	(4) Notice of transfer of reserved name . . . . .	\$20
42	(5) Application for registered	



1	name . . . . .	\$30
2	(6) Application for renewal of	
3	registered name . . . . .	\$30
4	(7) Corporation's statement of change	
5	of registered agent or registered	
6	office or both . . . . .	No Fee
7	(8) Agent's statement of change of	
8	registered office for each	
9	affected corporation . . . . .	No Fee
10	(9) Agent's statement of	
11	resignation . . . . .	No Fee
12	(10) Amendment of articles of	
13	incorporation . . . . .	\$30
14	(11) Restatement of articles of	
15	incorporation . . . . .	\$30
16	With amendment of articles . . . . .	\$30
17	(12) Articles of merger or share	
18	exchange . . . . .	\$90
19	(13) Articles of dissolution . . . . .	\$30
20	(14) Articles of revocation of	
21	dissolution . . . . .	\$30
22	(15) Certificate of administrative	
23	dissolution . . . . .	No Fee
24	(16) Application for reinstatement	
25	following administrative	
26	dissolution . . . . .	\$30
27	(17) Certificate of reinstatement . . . . .	No Fee
28	(18) Certificate of judicial dissolution . . . . .	No Fee
29	(19) Application for certificate of	
30	authority . . . . .	\$90
31	(20) Application for amended certificate	
32	of authority . . . . .	\$30
33	(21) Application for certificate of	
34	withdrawal . . . . .	\$30
35	(22) Certificate of revocation of	
36	authority to transact business . . . . .	No Fee
37	(23) Biennial report . . . . .	\$30
38	(24) Articles of correction . . . . .	\$30
39	(25) Application for certificate of	
40	existence or authorization . . . . .	\$15
41	(26) Any other document required or	
42	permitted to be filed by this	

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1 article, including an application  
 2 for any other certificates or  
 3 certification certificate (except  
 4 for any such other certificates  
 5 that the **secretary of state department** may  
 6 determine to issue without  
 7 additional fee in connection with  
 8 particular filings) and a request  
 9 for other facts of record under  
 10 section 9(b)(6) of this chapter . . . . . \$30

11 (b) The fee set forth in subsection (a)(23) for filing a biennial report  
 12 is fifteen dollars (\$15) per year, to be paid biennially.

13 (c) The **secretary of state department** shall collect a fee of ten  
 14 dollars (\$10) each time process is served on the **secretary of state**  
 15 **department** under this article. If the party to a proceeding causing  
 16 service of process prevails in the proceeding, then that party is entitled  
 17 to recover this fee as costs from the nonprevailing party.

18 (d) The **secretary of state department** shall collect the following  
 19 fees for copying and certifying the copy of any filed document relating  
 20 to a domestic or foreign corporation:

- 21 (1) Per page for copying . . . . . \$ 1
- 22 (2) For a certification stamp . . . . . \$15

23 SECTION 115. IC 23-1-18-5 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) A domestic  
 25 or foreign corporation may correct a document filed by the **secretary of**  
 26 **state department** if the document:

- 27 (1) contains an incorrect statement; or
- 28 (2) was defectively executed, attested, sealed, verified, or
- 29 acknowledged.

30 (b) A document is corrected:

- 31 (1) by preparing articles of correction that:
  - 32 (A) describe the document (including its filing date) or attach
  - 33 a copy of it to the articles;
  - 34 (B) specify the incorrect statement and the reason it is
  - 35 incorrect or the manner in which the execution was defective;
  - 36 and
  - 37 (C) correct the incorrect statement or defective execution; and
- 38 (2) by delivering the articles to the **secretary of state department**
- 39 for filing.

40 (c) Articles of correction are effective on the effective date of the  
 41 document they correct except as to persons reasonably relying on the  
 42 uncorrected document and adversely affected by the correction. As to



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those persons, articles of correction are effective when filed or when the reliance ceased to be reasonable, whichever first occurs.

SECTION 116. IC 23-1-18-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) If a document delivered to the ~~office of the secretary of state~~ **department** for filing satisfies the requirements of section 1 of this chapter, the ~~secretary of state~~ **department** shall file it.

(b) The ~~secretary of state~~ **department** files a document by stamping or otherwise endorsing "Filed", ~~together with the secretary of state's name and official title~~ and the date and time of receipt on both the original and the document copy and on the receipt for the filing fee. After filing a document, except as provided in IC 23-1-24-3 and IC 23-1-49-9, the ~~secretary of state~~ **department** shall deliver the document copy, with the filing fee receipt (or ~~acknowledgement~~ **acknowledgment** of receipt if no fee is required) attached, to the domestic or foreign corporation or its representative.

(c) If the ~~secretary of state~~ **department** refuses to file a document, the ~~secretary of state~~ **department** shall return it to the domestic or foreign corporation or its representative within ten (10) days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

(d) The ~~secretary of state's~~ **department** duty to file documents under this section is ministerial. The ~~secretary of state's~~ **department's** filing or refusing to file a document does not:

- (1) affect the validity or invalidity of the document in whole or part;
- (2) relate to the correctness or incorrectness of information contained in the document; or
- (3) create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 117. IC 23-1-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) If the ~~secretary of state~~ **department** refuses to file a document delivered to the ~~secretary of state's office~~ **department** for filing, the domestic or foreign corporation may appeal the refusal to the circuit or superior court of the county where the corporation's principal office (or, if none in Indiana, its registered office) is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the ~~secretary of state's~~ **department's** explanation of the refusal to file.

(b) The court may order the ~~secretary of state~~ **department** to file the document or take other action the court considers appropriate.



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(c) The court's final decision may be appealed as in other civil proceedings.

SECTION 118. IC 23-1-18-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. A certification stamp affixed on or a certification certificate attached to a copy of a document under this chapter, bearing ~~the secretary of state's signature (which may be in facsimile)~~ and the seal of this state, **Indiana**, is conclusive evidence that the original document is on file with the ~~secretary of state~~; **department**.

SECTION 119. IC 23-1-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) Any person may request the ~~secretary of state~~ **department** to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

(b) A certificate of existence or authorization sets forth:

(1) the domestic corporation's corporate name or the foreign corporation's corporate name used in Indiana;

(2) if a domestic corporation:

(A) that the domestic corporation is duly incorporated under the law of this state;

(B) the date of its incorporation; and

(C) the period of its duration if less than perpetual;

(3) if a foreign corporation, that the foreign corporation is authorized to transact business in Indiana;

(4) that all fees, taxes, and penalties owed to this state have been paid, if:

(A) payment is reflected in the records of the ~~secretary of state~~; **department**; and

(B) nonpayment affects the existence or authorization of the domestic or foreign corporation;

(5) if a domestic corporation or a foreign corporation, that its most recent biennial report required by IC 23-1-53-3 has been filed with the ~~secretary of state~~; **department**;

(6) that articles of dissolution have not been filed; and

(7) other facts of record ~~in with the office of the secretary of state~~ **department** that may be requested by the applicant.

(c) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the ~~secretary of state~~ **department** may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in Indiana.

SECTION 120. IC 23-1-18-10 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. A person  
 2 commits a Class A misdemeanor if the person signs a document the  
 3 person knows is false in any material respect with intent that the  
 4 document be delivered to the ~~secretary of state~~ **department** for filing.

5 SECTION 121. IC 23-1-19-1 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. The ~~secretary~~  
 7 ~~of state~~ **department** has the power reasonably necessary to perform the  
 8 duties required by this article.

9 SECTION 122. IC 23-1-20-6.5 IS ADDED TO THE INDIANA  
 10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 11 [EFFECTIVE JANUARY 1, 2000]: **Sec. 6.5. "Department" refers to**  
 12 **the department of commerce created by IC 4-4-3-2.**

13 SECTION 123. IC 23-1-21-1 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. One (1) or  
 15 more persons may act as the incorporator or incorporators of a  
 16 corporation by signing and causing to be delivered articles of  
 17 incorporation to the ~~secretary of state~~ **department** for filing.

18 SECTION 124. IC 23-1-23-1 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A corporate  
 20 name:

21 (1) must contain the word "corporation", "incorporated",  
 22 "company", or "limited", or the abbreviation "corp.", "inc.", "co.",  
 23 or "ltd.", or words or abbreviations of like import in another  
 24 language; and

25 (2) except as provided in subsection (e), may not contain language  
 26 stating or implying that the corporation is organized for a purpose  
 27 other than that permitted by IC 23-1-22-1 and its articles of  
 28 incorporation.

29 (b) Except as authorized by subsections (c) and (d), a corporate  
 30 name must be distinguishable upon the records of the ~~secretary of state~~  
 31 **department** from:

32 (1) the corporate name of a corporation incorporated or authorized  
 33 to transact business in Indiana;

34 (2) a corporate name reserved or registered under section 2 or 3  
 35 of this chapter; and

36 (3) the corporate name of a not-for-profit corporation incorporated  
 37 or authorized to transact business in Indiana.

38 (c) A corporation may apply to the ~~secretary of state~~ **department** for  
 39 authorization to use a name that is not distinguishable upon the  
 40 ~~secretary of state's department's~~ records from one (1) or more of the  
 41 names described in subsection (b). The ~~secretary of state~~ **department**  
 42 shall authorize use of the name applied for if:



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(1) the other corporation files its written consent to the use, signed by any current officer of the corporation; or

(2) the applicant delivers to the ~~secretary of state~~ **department** a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in Indiana.

(d) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation that is used in Indiana if the other corporation is incorporated or authorized to transact business in Indiana and the proposed user corporation:

(1) has merged with the other corporation;

(2) has been formed by reorganization of the other corporation; or

(3) has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(e) A bank holding company (as defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a part of its name. However, this subsection does not permit a bank holding company to advertise or represent itself to the public as affording the services or performing the duties that a bank or trust company only is entitled to afford and perform.

(f) Except as provided in IC 23-1-49-6, this article does not control the use of fictitious names.

SECTION 125. IC 23-1-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the ~~secretary of state~~ **department** for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the ~~secretary of state~~ **department** finds that the corporate name applied for is available, the ~~secretary of state~~ **department** shall reserve the name for the applicant's exclusive use for renewable one hundred twenty (120) day periods.

(b) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the ~~secretary of state~~ **department** a signed notice of the transfer that states the name and address of the transferee.

SECTION 126. IC 23-1-23-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A foreign corporation may register its corporate name, or its corporate name with any addition required by IC 23-1-49-6, if the name is distinguishable upon the records of the ~~secretary of state~~ **department** as provided in



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section 1 of this chapter.

(b) A foreign corporation registers its corporate name, or its corporate name with any addition required by IC 23-1-49-6, by delivering to the **secretary of state department** for filing an application:

(1) setting forth:

(A) its corporate name, or its corporate name with any addition required by IC 23-1-49-6;

(B) the state or country and date of its incorporation; and

(C) a brief description of the nature of the business in which it is engaged; and

(2) accompanied by a certificate of existence (or a document of similar import) from the state or country of incorporation.

(c) The name is registered for the applicant's exclusive use upon the effective date of the application.

(d) A foreign corporation whose registration is effective may renew it for successive years by delivering to the **secretary of state department** for filing a renewal application, which complies with the requirements of subsection (b), between October 1 and December 31 of the preceding year. The filing of the renewal application renews the registration for the following calendar year.

(e) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under that name or consent in writing to the use of that name by a corporation thereafter incorporated under this article or by another foreign corporation thereafter authorized to transact business in Indiana. The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

SECTION 127. IC 23-1-24-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) A corporation may change its registered office or registered agent by delivering to the **secretary of state department** for filing a statement of change that sets forth:

(1) the name of the corporation;

(2) the street address of its current registered office;

(3) if the current registered office is to be changed, the street address of the new registered office;

(4) the name of its current registered agent;

(5) if the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent or a representation that the new registered agent has consented (either

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on the statement or attached to it) to the appointment; and  
 (6) that after the change or changes are made, the street addresses  
 of its registered office and the business office of its registered  
 agent will be identical.

(b) If a registered agent changes the street address of the registered  
 agent's business office, the registered agent may change the street  
 address of the registered office of any corporation that the registered  
 agent serves by notifying the corporation in writing of the change and  
 signing (either manually or in facsimile) and delivering to the ~~secretary~~  
~~of state department~~ for filing a statement that complies with the  
 requirements of subsection (a) and recites that the corporation has been  
 notified of the change.

SECTION 128. IC 23-1-24-3 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A registered  
 agent may resign the agency appointment by signing and delivering to  
 the ~~secretary of state department~~ for filing as described in IC 23-1-18  
 a statement of resignation. The statement may include a statement that  
 the registered office is also discontinued.

(b) After filing the statement the ~~secretary of state department~~ shall  
 mail one (1) copy to the corporation at its principal office, if known,  
 and one (1) copy to the registered office, if not discontinued.

(c) The agency appointment is terminated, and the registered office  
 discontinued if so provided, on the thirty-first day after the date on  
 which the statement was filed.

SECTION 129. IC 23-1-27-2 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) A  
 corporation may acquire its own shares. Unless a resolution of the  
 board of directors or the corporation's articles of incorporation provide  
 otherwise, shares so acquired constitute authorized but unissued shares.

(b) If the articles of incorporation prohibit the reissue of acquired  
 shares, the number of authorized shares is reduced by the number of  
 shares acquired, effective upon amendment of the articles of  
 incorporation.

(c) Articles of amendment for purposes of subsection (b) may be  
 adopted by the board of directors without shareholder action, shall be  
 delivered to the ~~secretary of state department~~ for filing, and shall set  
 forth:

- (1) the name of the corporation;
- (2) the reduction in the number of authorized shares, itemized by  
 class and series; and
- (3) the total number of authorized shares, itemized by class and  
 series, remaining after reduction of the shares.



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(d) A corporation has authority to use, hold, acquire, cancel, and dispose of treasury shares (as defined in prior law).

(e) Unless the board of directors adopts an amendment to the corporation's articles of incorporation to reduce the number of authorized shares, treasury shares of the corporation that are cancelled shall be treated as authorized but unissued shares.

SECTION 130. IC 23-1-38-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one (1) or more amendments to the corporation's articles of incorporation without shareholder action to:

(1) extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) delete the names and addresses of the initial directors;

(3) delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the ~~secretary of state~~ **department**;

(4) change each issued and unissued authorized share of an outstanding class into a greater number of whole shares or a lesser number of whole shares and fractional shares if the corporation has only shares of that class outstanding;

(5) change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name;

(6) reduce the number of authorized shares solely as the result of a cancellation of treasury shares; or

(7) make any other change expressly permitted by this article to be made without shareholder action.

SECTION 131. IC 23-1-38-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) A corporation amending its articles of incorporation shall deliver to the ~~secretary of state~~ **department** for filing articles of amendment setting forth:

(1) the name of the corporation;

(2) the text of each amendment adopted;

(3) if an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself;

(4) the date of each amendment's adoption;

(5) if an amendment was adopted by the incorporators or board of



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1 directors without shareholder action, a statement to that effect and  
2 that shareholder action was not required;

3 (6) if an amendment was approved by the shareholders:

4 (A) the designation, number of outstanding shares, number of  
5 votes entitled to be cast by each voting group entitled to vote  
6 separately on the amendment, and number of votes of each  
7 voting group represented at the meeting;

8 (B) either the total number of votes cast for and against the  
9 amendment by each voting group entitled to vote separately on  
10 the amendment or the total number of votes cast for the  
11 amendment by each voting group and a statement that the  
12 number cast for the amendment by each voting group was  
13 sufficient for approval by that voting group.

14 (b) If a corporation amends its articles of incorporation to change its  
15 corporate name, it may, after the amendment has become effective, file  
16 for record with the county recorder of each county in Indiana in which  
17 it has real property at the time the amendment becomes effective a  
18 file-stamped copy of the articles of amendment. The validity of a  
19 change in name is not affected by a corporation's failure to record the  
20 articles of amendment.

21 SECTION 132. IC 23-1-38-7 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) A  
23 corporation's board of directors or, if the board of directors has not  
24 been selected, the incorporators may restate its articles of incorporation  
25 at any time with or without shareholder action.

26 (b) The restatement may include one (1) or more amendments to the  
27 articles. If the restatement includes an amendment requiring  
28 shareholder approval, it must be adopted as provided in section 3 of  
29 this chapter.

30 (c) If the board of directors submits a restatement for shareholder  
31 action, the corporation shall notify each shareholder, whether or not  
32 entitled to vote, of the proposed shareholders' meeting in accordance  
33 with IC 23-1-29-5. The notice must also state that the purpose, or one  
34 (1) of the purposes, of the meeting is to consider the proposed  
35 restatement and must contain or be accompanied by a copy of the  
36 restatement that identifies any amendment or other change it would  
37 make in the articles.

38 (d) A corporation restating its articles of incorporation shall deliver  
39 to the ~~secretary of state~~ **department** for filing articles of restatement  
40 setting forth the name of the corporation and the text of the restated  
41 articles of incorporation together with a certificate setting forth:

42 (1) whether the restatement contains an amendment to the articles

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1 requiring shareholder approval and, if it does not, that the board  
2 of directors adopted the restatement; or

3 (2) if the restatement contains an amendment to the articles  
4 requiring shareholder approval, the information required by  
5 section 6 of this chapter.

6 (e) Duly adopted restated articles of incorporation supersede the  
7 original articles of incorporation and all amendments to them.

8 (f) The ~~secretary of state~~ **department** may certify restated articles  
9 of incorporation, as the articles of incorporation currently in effect,  
10 without including the certificate information required by subsection  
11 (d).

12 SECTION 133. IC 23-1-38-8 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) A  
14 corporation's articles of incorporation may be amended without action  
15 by the board of directors or shareholders to carry out a plan of  
16 reorganization ordered or decreed by a court of competent jurisdiction  
17 under federal statute if the articles of incorporation after amendment  
18 contain only provisions required or permitted by IC 23-1-21-2.

19 (b) The individual or individuals designated by the court shall  
20 deliver to the ~~secretary of state~~ **department** for filing articles of  
21 amendment setting forth:

- 22 (1) the name of the corporation;
- 23 (2) the text of each amendment approved by the court;
- 24 (3) the date of the court's order or decree approving the articles of  
25 amendment;
- 26 (4) the title of the reorganization proceeding in which the order or  
27 decree was entered; and
- 28 (5) a statement that the court had jurisdiction of the proceeding  
29 under federal statute.

30 (c) Shareholders of a corporation undergoing reorganization do not  
31 have dissenters' rights except as provided in the reorganization plan.

32 (d) This section does not apply after entry of a final decree in the  
33 reorganization proceeding even though the court retains jurisdiction of  
34 the proceeding for limited purposes unrelated to consummation of the  
35 reorganization plan.

36 SECTION 134. IC 23-1-40-4 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) A parent  
38 corporation owning at least ninety percent (90%) of the outstanding  
39 shares of each class of a subsidiary corporation may merge the  
40 subsidiary and the parent corporation without approval of the  
41 shareholders of the parent or subsidiary.

42 (b) If the parent corporation will be the surviving corporation, the

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board of directors of the parent shall adopt a plan of merger that sets forth:

- (1) the names of the parent and subsidiary; and
- (2) the manner and basis of converting the shares of the subsidiary into shares, obligations, or other securities of the parent or any other corporation or into cash or other property in whole or in part.

(c) The parent shall mail a copy or summary of the plan of merger to each shareholder of the subsidiary who does not waive the mailing requirement in writing.

(d) The parent may not deliver articles of merger to the ~~secretary of state~~ **department** for filing until at least thirty (30) days after the date it mailed a copy of the plan of merger to each shareholder of the subsidiary who did not waive the mailing requirement.

(e) The articles of incorporation of the parent corporation that are in effect immediately before the effective date of the merger constitute the articles of incorporation of the surviving corporation, and articles of merger under this section may not contain amendments to the articles of incorporation of the parent corporation (except for amendments enumerated in IC 23-1-38-2). If the subsidiary is a domestic corporation and will be the surviving corporation of a merger with a parent that is a foreign corporation, the articles of incorporation of the parent corporation that will be inherited by the subsidiary upon the effective date of the merger shall be delivered to the ~~secretary of state~~ **department** for filing together with the articles of merger to be delivered for filing under section 5(a) of this chapter.

(f) If the parent corporation will not be the surviving corporation, the board of directors of the parent shall adopt a plan of merger that sets forth:

- (1) the names of the parent and subsidiary; and
- (2) the manner and basis of converting the shares of the parent into shares of the surviving corporation.

(g) A plan adopted under subsection (f) must ensure that each shareholder of the parent corporation whose shares were outstanding immediately before the effective date of the merger will hold the same proportionate number of shares relative to the number of shares held by all such shareholders (except for shares of the surviving corporation received solely as a result of the shareholder's proportionate shareholdings in any other corporations besides the parent which are parties to the merger), with identical designations, preferences, limitations, and relative rights, of the surviving corporation immediately after that effective date. If the plan provides that the

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shareholders of the subsidiary (other than the parent) will not be shareholders of the surviving corporation immediately after that effective date, the plan must also set forth the manner and basis of converting the shares of the subsidiary held by such shareholders into obligations or other securities of the surviving corporation or shares, obligations, or other securities of any other corporation or into cash or other property in whole or in part.

SECTION 135. IC 23-1-40-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the **secretary of state department** for filing articles of merger or share exchange setting forth:

- (1) the plan of merger or share exchange;
- (2) if shareholder approval was not required, a statement to that effect;
- (3) if approval of the shareholders of one (1) or more corporations party to the merger or share exchange was required:
  - (A) the designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan as to each corporation; and
  - (B) either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.

(b) Unless a delayed effective date is specified, a merger or share exchange takes effect when the articles of merger or share exchange are filed.

(c) The surviving corporation resulting from a merger may, after the merger has become effective, file for record with the county recorder of each county in Indiana in which the corporation has real property at the time of the merger, the title to which will be transferred by the merger, a file-stamped copy of the articles of merger. If the plan of merger sets forth amendments to the articles of incorporation of the surviving corporation that change its corporate name, a file-stamped copy of the articles of merger may be filed for record with the county recorder of each county in Indiana in which the surviving corporation has any real property at the time the merger becomes effective. A



1 failure to record a copy of the articles of merger under this subsection  
 2 does not affect the validity of the merger or the change in corporate  
 3 name.

4 SECTION 136. IC 23-1-40-7 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) One (1) or  
 6 more foreign corporations may participate in a merger or a share  
 7 exchange with one (1) or more domestic corporations if:

8 (1) in a merger, the merger is permitted by the law of the state or  
 9 country under whose law each foreign corporation is incorporated  
 10 and each foreign corporation complies with that law in effecting  
 11 the merger;

12 (2) in a share exchange, the corporation whose shares will be  
 13 acquired in the share exchange is a domestic corporation, whether  
 14 or not a share exchange is permitted by the law of the state or  
 15 country under whose law the acquiring corporation is  
 16 incorporated;

17 (3) the foreign corporation complies with section 5 of this chapter  
 18 if it is the surviving corporation of the merger or acquiring  
 19 corporation of the share exchange; and

20 (4) each domestic corporation complies with the applicable  
 21 provisions of sections 1 through 4 of this chapter and, if it is the  
 22 surviving corporation of the merger or acquiring corporation of  
 23 the share exchange, with section 5 of this chapter.

24 (b) Upon the merger or share exchange taking effect, the surviving  
 25 foreign corporation of a merger and the acquiring foreign corporation  
 26 of a share exchange is deemed:

27 (1) to appoint the ~~secretary of state~~ **attorney general** as its agent  
 28 for service of process in a proceeding to enforce any obligation or  
 29 the rights of dissenting shareholders of each domestic corporation  
 30 party to the merger or share exchange; and

31 (2) to agree that it will promptly pay to the dissenting  
 32 shareholders of each domestic corporation party to the merger or  
 33 share exchange the amount, if any, to which they are entitled  
 34 under IC 23-1-44.

35 (c) This section does not limit the power of a foreign corporation to  
 36 acquire all or part of the shares of one (1) or more classes or series of  
 37 a domestic corporation through a voluntary exchange or otherwise.

38 SECTION 137. IC 23-1-45-1 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. A majority of  
 40 the incorporators or initial directors of a corporation that has not issued  
 41 shares or has not commenced business may dissolve the corporation by  
 42 delivering to the ~~secretary of state~~ **department** for filing articles of

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dissolution that set forth:

- (1) the name of the corporation;
- (2) the date of its incorporation;
- (3) either:
  - (A) that none of the corporation's shares has been issued; or
  - (B) that the corporation has not commenced business;
- (4) that no debt of the corporation remains unpaid;
- (5) that the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and
- (6) that a majority of the incorporators or initial directors authorized the dissolution.

SECTION 138. IC 23-1-45-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the ~~secretary of state~~ **department** for filing articles of dissolution setting forth the following:

- (1) The name of the corporation.
- (2) The date dissolution was authorized.
- (3) If dissolution was approved by the shareholders:
  - (A) the number of votes entitled to be cast on the proposal to dissolve; and
  - (B) either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.

If voting by voting groups is required, the information required by this subdivision shall be separately provided for each voting group entitled to vote separately on the plan to dissolve.

(b) A corporation is dissolved upon the effective date of its articles of dissolution.

SECTION 139. IC 23-1-45-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) A corporation may revoke its dissolution within one hundred twenty (120) days of its effective date.

(b) Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action by the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

(c) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the ~~secretary of state~~



**department** for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

- (1) the name of the corporation;
- (2) the effective date of the dissolution that was revoked;
- (3) the date that the revocation of dissolution was authorized;
- (4) if the corporation's board of directors (or incorporators) revoked the dissolution, a statement to that effect;
- (5) if the corporation's board of directors revoked a dissolution authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and
- (6) if shareholder action was required to revoke the dissolution, the information required by section 3(a)(3) of this chapter.

(d) Unless a delayed effective date is specified, revocation of dissolution is effective when articles of revocation of dissolution are filed.

(e) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if dissolution had never occurred.

SECTION 140. IC 23-1-46-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. The ~~secretary~~ **of state department** may commence a proceeding under section 2 of this chapter to administratively dissolve a corporation if:

- (1) the corporation does not pay within sixty (60) days after they are due any franchise taxes or penalties imposed by this article or other law;
- (2) the corporation does not deliver for filing its biennial report to the ~~secretary~~ **of state department** within sixty (60) days after it is due;
- (3) the corporation is without a registered agent or registered office in this state for sixty (60) days or more;
- (4) the corporation does not notify the ~~secretary~~ **of state department** within sixty (60) days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or
- (5) the corporation's period of duration stated in its articles of incorporation expires.

SECTION 141. IC 23-1-46-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) If the ~~secretary~~ **of state department** determines that one (1) or more grounds exist under section 1 of this chapter for dissolving a corporation, the

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1 **secretary of state department** shall serve the corporation with written  
2 notice of the determination under IC 23-1-24-4.

3 (b) If the corporation does not correct each ground for dissolution  
4 or demonstrate to the reasonable satisfaction of the **secretary of state**  
5 **department** that each ground determined by the **secretary of state**  
6 **department** does not exist within sixty (60) days after service of the  
7 notice is perfected under IC 23-1-24-4, the **secretary of state**  
8 **department** shall administratively dissolve the corporation by signing  
9 a certificate of dissolution that recites the ground or grounds for  
10 dissolution and its effective date. The **secretary of state department**  
11 shall file the original of the certificate and serve a copy on the  
12 corporation under IC 23-1-24-4.

13 (c) A corporation administratively dissolved continues its corporate  
14 existence but may not carry on any business except that necessary to  
15 wind up and liquidate its business and affairs under IC 6-8.1-10-9 and  
16 IC 23-1-45-5 and notify claimants under IC 23-1-45-6 and  
17 IC 23-1-45-7.

18 (d) The administrative dissolution of a corporation does not  
19 terminate the authority of its registered agent.

20 SECTION 142. IC 23-1-46-3 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A  
22 corporation administratively dissolved under section 2 of this chapter  
23 may apply to the **secretary of state department** for reinstatement. The  
24 application must:

25 (1) recite the name of the corporation and the effective date of its  
26 administrative dissolution;

27 (2) state that the ground or grounds for dissolution either did not  
28 exist or have been eliminated;

29 (3) state that the corporation's name satisfies the requirements of  
30 IC 23-1-23-1; and

31 (4) contain a certificate from the department of state revenue  
32 reciting that all taxes owed by the corporation have been paid.

33 (b) If the **secretary of state department** determines that the  
34 application contains the information required by subsection (a) and that  
35 the information is correct, the **secretary of state department** shall  
36 cancel the certificate of dissolution and prepare a certificate of  
37 reinstatement that recites the determination and the effective date of  
38 reinstatement, file the original of the certificate, and serve a copy on  
39 the corporation under IC 23-1-24-4.

40 (c) When the reinstatement is effective, it relates back to and takes  
41 effect as of the effective date of the administrative dissolution and the  
42 corporation resumes carrying on its business as if the administrative



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dissolution had never occurred.

SECTION 143. IC 23-1-46-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) If the ~~secretary of state department~~ denies a corporation's application for reinstatement following administrative dissolution, the ~~secretary of state department~~ shall serve the corporation under IC 23-1-24-4 with a written notice that explains the reason or reasons for denial.

(b) The corporation may appeal the denial of reinstatement to the circuit or superior court of the county where the corporation's principal office (or, if none in Indiana, its registered office) is located within thirty (30) days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the ~~secretary of state's department's~~ certificate of dissolution, the corporation's application for reinstatement, and the ~~secretary of state's department's~~ notice of denial.

(c) The court may order the ~~secretary of state department~~ to reinstate the dissolved corporation or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 144. IC 23-1-47-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) If, after a hearing, the court determines that one (1) or more grounds for judicial dissolution described in section 1 of this chapter exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the ~~secretary of state, who department, which~~ shall file it.

(b) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with IC 6-8.1-10-9 and IC 23-1-45-5 and the notification of claimants in accordance with IC 23-1-45-6 and IC 23-1-45-7.

SECTION 145. IC 23-1-49-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A foreign corporation may not transact business in Indiana until it obtains a certificate of authority from the ~~secretary of state: department.~~ However, this requirement does not apply to the following:

- (1) Banks.
- (2) Savings banks.
- (3) Savings associations.
- (4) Corporate fiduciaries.



- (5) Credit unions.
- (6) Industrial loan and investment companies.
- (7) Surety companies.
- (8) Trust companies.
- (9) Safe deposit companies.
- (10) Railroad corporations.
- (11) Insurance companies.
- (12) Building and loan associations.

(b) The following activities, among others, do not constitute transacting business within the meaning of subsection (a) or within the meaning of IC 27-1-17-1 or IC 28-1-22-1:

- (1) Maintaining, defending, or settling any proceeding.
- (2) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs.
- (3) Maintaining bank accounts.
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities.
- (5) Selling through independent contractors.
- (6) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside Indiana before they become contracts.
- (7) Making loans or otherwise creating or acquiring indebtedness, mortgages, and security interests in real or personal property.
- (8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.
- (9) Owning, without more, real or personal property.
- (10) Conducting an isolated transaction that is completed within thirty (30) days and that is not one in the course of repeated transactions of a like nature.
- (11) Transacting business in interstate commerce.

(c) The list of activities in subsection (b) is not exhaustive.

SECTION 146. IC 23-1-49-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A foreign corporation may apply for a certificate of authority to transact business in Indiana by delivering an application to the ~~secretary of state~~ **department** for filing. The application must set forth:

- (1) the name of the foreign corporation or, if its name is unavailable for use in Indiana, a corporate name that satisfies the requirements of section 6 of this chapter;
- (2) the name of the state or country under whose law it is incorporated;



- (3) its date of incorporation and period of duration;
- (4) the street address of its principal office;
- (5) the address of its registered office in Indiana and the name of its registered agent at that office; and
- (6) the names and usual business addresses of its current directors and officers.

(b) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import) duly authenticated by the **secretary of state department** or other official having custody of corporate records in the state or country under whose law it is incorporated.

SECTION 147. IC 23-1-49-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) A foreign corporation authorized to transact business in Indiana must obtain an amended certificate of authority from the **secretary of state department** if it changes:

- (1) its corporate name;
- (2) the period of its duration; or
- (3) the state or country of its incorporation.

(b) The requirements of section 3 of this chapter for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

SECTION 148. IC 23-1-49-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) If the corporate name of a foreign corporation does not satisfy the requirements of IC 23-1-23-1, the foreign corporation, to obtain or maintain a certificate of authority to transact business in Indiana:

- (1) may add the word "corporation", "incorporated", "company", or "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", to its corporate name for use in Indiana; or
- (2) may use a fictitious name to transact business in Indiana if its real name is unavailable and it delivers to the **secretary of state department** for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(b) Except as authorized by subsections (c) and (d), the corporate name (including a fictitious name) of a foreign corporation must be distinguishable upon the records of the **secretary of state department** from:

- (1) the corporate name of a corporation incorporated or authorized to transact business in Indiana;
- (2) a corporate name reserved or registered under IC 23-1-23-2 or IC 23-1-23-3;

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(3) the fictitious name of another foreign corporation authorized to transact business in Indiana; and

(4) the corporate name of a not-for-profit corporation incorporated or authorized to transact business in Indiana.

(c) A foreign corporation may apply to the ~~secretary of state~~ **department** for authorization to use in Indiana the name of another corporation (incorporated or authorized to transact business in Indiana) that is not distinguishable upon the ~~secretary of state's~~ **department's** records from the name applied for. The ~~secretary of state~~ **department** shall authorize use of the name applied for if:

(1) the other corporation consents to the use in writing and submits an undertaking in form satisfactory to the ~~secretary of state~~ **department** to change its name to a name that is distinguishable upon the records of the ~~secretary of state~~ **department** from the name of the applying corporation; or

(2) the applicant delivers to the ~~secretary of state~~ **department** a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in Indiana.

(d) A foreign corporation may use in Indiana the name (including the fictitious name) of another domestic or foreign corporation that is used in Indiana if the other corporation is incorporated or authorized to transact business in Indiana and the foreign corporation:

(1) has merged with the other corporation;

(2) has been formed by reorganization of the other corporation; or

(3) has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(e) If a foreign corporation authorized to transact business in Indiana changes its corporate name to one that does not satisfy the requirements of IC 23-1-23-1, it may not transact business in Indiana under the changed name until it adopts a name satisfying the requirements of IC 23-1-23-1 and obtains an amended certificate of authority under section 4 of this chapter.

SECTION 149. IC 23-1-49-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) A foreign corporation authorized to transact business in Indiana may change its registered office or registered agent by delivering to the ~~secretary of state~~ **department** for filing a statement of change that sets forth:

(1) its name;

(2) the street address of its current registered office;

(3) if the current registered office is to be changed, the street address of its new registered office;



- 1 (4) the name of its current registered agent;  
 2 (5) if the current registered agent is to be changed, the name of its  
 3 new registered agent and the new agent's written consent or a  
 4 representation that the new registered agent has consented (either  
 5 on the statement or attached to it) to the appointment; and  
 6 (6) that after the change or changes are made, the street addresses  
 7 of its registered office and the business office of its registered  
 8 agent will be identical.

9 (b) If a registered agent changes the street address of the agent's  
 10 business office, the registered agent may change the street address of  
 11 the registered office of any foreign corporation that the registered agent  
 12 serves by notifying the corporation in writing of the change and signing  
 13 (either manually or in facsimile) and delivering to the **secretary of state**  
 14 **department** for filing a statement of change that complies with the  
 15 requirements of subsection (a) and recites that the corporation has been  
 16 notified of the change.

17 SECTION 150. IC 23-1-49-9 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) The  
 19 registered agent of a foreign corporation may resign the agency  
 20 appointment by signing and delivering to the **secretary of state**  
 21 **department** for filing as described in IC 23-1-18 a statement of  
 22 resignation. The statement of resignation may include a statement that  
 23 the registered office is also discontinued.

24 (b) After filing the statement, the **secretary of state department**  
 25 shall attach the filing receipt to one (1) copy and mail the copy and  
 26 receipt to the registered office if not discontinued. The **secretary of**  
 27 **state department** shall mail one (1) copy to the foreign corporation at  
 28 its principal office address shown in its most recent annual report.

29 (c) The agency appointment is terminated, and the registered office  
 30 discontinued if so provided, on the thirty-first day after the date on  
 31 which the statement was filed.

32 SECTION 151. IC 23-1-50-1 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. A foreign  
 34 corporation authorized to transact business in Indiana may not  
 35 withdraw from this state until it obtains a certificate of withdrawal from  
 36 the **secretary of state: department**.

37 SECTION 152. IC 23-1-50-2 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. A foreign  
 39 corporation authorized to transact business in Indiana may apply for a  
 40 certificate of withdrawal by delivering an application to the **secretary**  
 41 **of state department** for filing. The application must set forth:

- 42 (1) the name of the foreign corporation and the name of the state

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or country under whose law it is incorporated;

(2) that it is not transacting business in Indiana and that it surrenders its authority to transact business in Indiana;

(3) that it revokes the authority of its registered agent to accept service on its behalf and appoints the **secretary of state attorney general** as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in Indiana;

(4) a mailing address to which the **secretary of state attorney general** may mail a copy of any process served on the **secretary of state attorney general** under subdivision (3); and

(5) a commitment to notify the **secretary of state attorney general** in the future of any change in its mailing address.

SECTION 153. IC 23-1-50-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. After the withdrawal of the corporation is effective, service of process on the **secretary of state attorney general** under this chapter is service on the foreign corporation. Upon receipt of process, the **secretary of state attorney general** shall mail a copy of the process to the foreign corporation at the mailing address set forth in its application for withdrawal.

SECTION 154. IC 23-1-51-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. The **secretary of state department** may commence a proceeding under section 2 of this chapter to revoke the certificate of authority of a foreign corporation authorized to transact business in Indiana if:

(1) the foreign corporation does not deliver its annual report to the **secretary of state department** within sixty (60) days after it is due;

(2) the foreign corporation does not pay within sixty (60) days after they are due any franchise taxes or penalties imposed by this article or other law;

(3) the foreign corporation is without a registered agent or registered office in Indiana for sixty (60) days or more;

(4) the foreign corporation does not inform the **secretary of state department** under IC 23-1-49-8 or IC 23-1-49-9 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation, or discontinuance;

(5) an incorporator, director, officer, or agent of the foreign corporation signed a document the incorporator, director, officer,

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1 or agent knew was false in any material respect with intent that  
 2 the document be delivered to the **secretary of state department**  
 3 for filing; or

4 (6) the **secretary of state department** receives a duly  
 5 authenticated certificate from the **secretary of state department**  
 6 or other official having custody of corporate records in the state  
 7 or country under whose law the foreign corporation is  
 8 incorporated stating that it has been dissolved or disappeared as  
 9 the result of a merger.

10 SECTION 155. IC 23-1-51-2 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) If the  
 12 **secretary of state department** determines that one (1) or more grounds  
 13 exist under section 1 of this chapter for revocation of a certificate of  
 14 authority, the **secretary of state department** shall, under IC 23-1-49-10,  
 15 serve the foreign corporation with written notice of the determination.

16 (b) If the foreign corporation does not correct each ground for  
 17 revocation or demonstrate to the reasonable satisfaction of the **secretary**  
 18 **of state department** that each ground determined by the **secretary of**  
 19 **state department** does not exist within sixty (60) days after service of  
 20 the notice is perfected under IC 23-1-49-10, the **secretary of state**  
 21 **department** may revoke the foreign corporation's certificate of  
 22 authority by signing a certificate of revocation that recites the ground  
 23 or grounds for revocation and its effective date. The **secretary of state**  
 24 **department** shall file the original of the certificate and serve a copy on  
 25 the foreign corporation under IC 23-1-49-10.

26 (c) The authority of a foreign corporation to transact business in  
 27 Indiana ceases on the date shown on the certificate revoking its  
 28 certificate of authority.

29 (d) The **secretary of state's department's** revocation of a foreign  
 30 corporation's certificate of authority appoints the **secretary of state**  
 31 **attorney general** the foreign corporation's agent for service of process  
 32 in any proceeding based on a cause of action that arose during the time  
 33 the foreign corporation was authorized to transact business in Indiana.  
 34 Service of process on the **secretary of state attorney general** under this  
 35 subsection is service on the foreign corporation. Upon receipt of  
 36 process, the **secretary of state attorney general** shall mail a copy of the  
 37 process to the secretary of the foreign corporation at its principal office  
 38 shown in its most recent annual report or in any subsequent  
 39 communication received from the corporation stating the current  
 40 mailing address of its principal office, or, if none are on file, in its  
 41 application for a certificate of authority.

42 (e) Revocation of a foreign corporation's certificate of authority does

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1 not terminate the authority of the registered agent of the corporation.

2 SECTION 156. IC 23-1-51-3 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A foreign  
4 corporation may appeal the ~~secretary of state's~~ **department's**  
5 revocation of its certificate of authority to the circuit or superior court  
6 of the county in which its registered office is located within thirty (30)  
7 days after service of the certificate of revocation is perfected under  
8 IC 23-1-49-10. The foreign corporation appeals by petitioning the court  
9 to set aside the revocation and attaching to the petition copies of its  
10 certificate of authority and the ~~secretary of state's~~ **department's**  
11 certificate of revocation.

12 (b) The court may order the ~~secretary of state~~ **department's** to  
13 reinstate the certificate of authority or may take any other action the  
14 court considers appropriate.

15 (c) The court's final decision may be appealed as in other civil  
16 proceedings.

17 SECTION 157. IC 23-1-52-1 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A  
19 corporation shall keep as permanent records minutes of all meetings of  
20 its shareholders and board of directors, a record of all actions taken by  
21 the shareholders or board of directors without a meeting, and a record  
22 of all actions taken by a committee of the board of directors in place of  
23 the board of directors on behalf of the corporation.

24 (b) A corporation shall maintain appropriate accounting records.

25 (c) A corporation or its agent shall maintain a record of its  
26 shareholders, in a form that permits preparation of a list of the names  
27 and addresses of all shareholders, in alphabetical order by class of  
28 shares showing the number and class of shares held by each.

29 (d) A corporation shall maintain its records in written form or in  
30 another form capable of conversion into written form within a  
31 reasonable time.

32 (e) A corporation shall keep a copy of the following records at its  
33 principal office:

34 (1) Its articles or restated articles of incorporation and all  
35 amendments to them currently in effect.

36 (2) Its bylaws or restated bylaws and all amendments to them  
37 currently in effect.

38 (3) Resolutions adopted by its board of directors with respect to  
39 one (1) or more classes or series of shares and fixing their relative  
40 rights, preferences, and limitations, if shares issued pursuant to  
41 those resolutions are outstanding.

42 (4) The minutes of all shareholders' meetings, and records of all

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1 action taken by shareholders without a meeting, for the past three  
2 (3) years.

3 (5) All written communications to shareholders generally within  
4 the past three (3) years, including the financial statements  
5 furnished for the past three (3) years under IC 23-1-53-1.

6 (6) A list of the names and business addresses of its current  
7 directors and officers.

8 (7) Its most recent annual report delivered to the ~~secretary of state~~  
9 **department** under IC 23-1-53-3.

10 SECTION 158. IC 23-1-53-3 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) Each  
12 domestic corporation and each foreign corporation authorized to  
13 transact business in Indiana shall deliver a biennial report to the  
14 ~~secretary of state~~ **department** for filing that sets forth:

15 (1) the name of the corporation and the state or country under  
16 whose law it is incorporated;

17 (2) the address of its registered office and the name of its  
18 registered agent at that office in Indiana;

19 (3) the address of its principal office; and

20 (4) the names and business addresses of its directors, secretary,  
21 and the highest executive officer of the corporation.

22 (b) Information in the biennial report must be current as of the date  
23 the biennial report is executed on behalf of the corporation.

24 (c) The first biennial report must be delivered to the ~~secretary of~~  
25 ~~state~~ **department** in the second year following the calendar year in  
26 which a domestic corporation was incorporated or a foreign corporation  
27 was authorized to transact business. Except as provided in subsection  
28 (d), the biennial report is due during the same month as the month in  
29 which the corporation was incorporated or authorized to transact  
30 business.

31 (d) If the ~~secretary of state, department~~, in cooperation with the  
32 department of state revenue, allows a domestic corporation to file a  
33 biennial report at the same time the corporation files its adjusted gross  
34 income tax return under section 4 of this chapter, the biennial report of  
35 the corporation is due when the domestic corporation's adjusted gross  
36 income tax return is due under IC 6-3.

37 (e) Subsequent biennial reports must be delivered to the ~~secretary~~  
38 ~~of state~~ **department** every second year following the year in which the  
39 last biennial report was filed. The ~~secretary of state~~ **department** may  
40 accept reports during the two (2) months before the month that they are  
41 due.

42 (f) If a biennial report does not contain the information required by



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1 this section, the ~~secretary of state~~ **department** shall promptly notify the  
 2 reporting domestic or foreign corporation in writing and return the  
 3 report to it for correction. If the report is corrected to contain the  
 4 information required by this section and delivered to the ~~secretary of~~  
 5 **state department** within thirty (30) days after the effective date of  
 6 notice, it is deemed to be timely filed.

7 SECTION 159. IC 23-1-53-4 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) The  
 9 ~~secretary of state~~ **department** in cooperation with the department of  
 10 state revenue may provide for the filing of a biennial report by a  
 11 domestic corporation at the same time the domestic corporation files an  
 12 adjusted gross income tax return.

13 (b) As provided in subsection (a), a domestic corporation may file  
 14 a biennial report with the department of state revenue at the same time  
 15 the corporation files an adjusted gross income tax return. However, a  
 16 domestic corporation retains the option of filing the biennial report  
 17 directly with the ~~secretary of state~~ **department**. The biennial report  
 18 must in any case meet the requirements of IC 23-1-53-3.

19 (c) A biennial report filed under this section is delivered to the  
 20 ~~office of the secretary of state~~ **department** for filing for purposes of  
 21 this article when it is delivered to the department of state revenue.

22 (d) The department of state revenue shall forward all biennial  
 23 reports filed under this chapter to the ~~office of the secretary of state~~  
 24 **department**.

25 (e) The department of state revenue in cooperation with the ~~office~~  
 26 ~~of the secretary of state~~ **department** shall prescribe and furnish a form  
 27 for a biennial report filed under this chapter.

28 (f) If for any reason a domestic corporation does not file an adjusted  
 29 gross income tax return, it shall file a biennial report with the ~~secretary~~  
 30 ~~of state~~ **department** at a time prescribed by the ~~office of secretary of~~  
 31 ~~state~~ **department**.

32 SECTION 160. IC 23-1-54-3 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) The Indiana  
 34 corporate law survey commission is established for the purpose of  
 35 considering recommendations to the general assembly, from time to  
 36 time, concerning amendments to the Indiana business corporation law  
 37 (this article), IC 23-17, or any other corporation, limited liability  
 38 company, or partnership laws, or new or additional legislation affecting  
 39 corporations, limited liability companies, partnerships, or other  
 40 business entities (domestic or foreign) authorized to do business or  
 41 doing business in Indiana.

42 (b) The commission consists of fourteen (14) members, appointed



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1 by the governor, who shall serve without compensation and without  
 2 reimbursement for expenses. ~~The secretary of state also shall serve as~~  
 3 ~~an ex officio member.~~

4 (c) The commission shall conduct its proceedings and affairs  
 5 according to such rules as it may prescribe.

6 (d) The commission may publish official comments.

7 SECTION 161. IC 23-1.5-1-5.8 IS ADDED TO THE INDIANA  
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 9 [EFFECTIVE JANUARY 1, 2000]: **Sec. 5.8. "Department" refers to**  
 10 **the department of commerce created by IC 4-3-2-2.**

11 SECTION 162. IC 23-1.5-2-9 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) The  
 13 **secretary of state department** may issue a certificate of incorporation  
 14 under this article only if a certificate of registration has first been  
 15 obtained as provided by this section.

16 (b) Application for a certificate of registration:

17 (1) shall be made to the bureau in writing; and

18 (2) must contain the name and address of the proposed  
 19 corporation and such other information as may be required by a  
 20 licensing authority.

21 (c) Upon receipt of the application, the licensing authority shall  
 22 review the application and make such investigation of the proposed  
 23 corporation as it considers necessary. If the licensing authority finds  
 24 that:

25 (1) the directors and shareholders are properly licensed in  
 26 compliance with statute and the rules of the licensing authority;  
 27 and

28 (2) the corporation will be organized in compliance with statute  
 29 and with the rules of the licensing authority;

30 the licensing authority shall certify to the bureau that a certificate of  
 31 registration should be issued. When the bureau has received approval  
 32 from the appropriate licensing authorities, the bureau shall issue, upon  
 33 payment of a registration fee of twenty-five dollars (\$25), a certificate  
 34 of registration.

35 (d) The incorporators shall present the certificate of registration to  
 36 the **secretary of state department** at the time the articles of  
 37 incorporation are presented for filing.

38 (e) The **secretary of state department** shall issue a certificate of  
 39 incorporation within sixty (60) days after the date the articles of  
 40 incorporation are filed, if he finds that the articles of incorporation  
 41 conform to law.

42 (f) After the articles of incorporation are approved, the ~~secretary of~~



1 **state department** shall:

- 2 (1) place his endorsement on the certificate of registration; and  
 3 (2) return to the incorporators the certificate of registration and  
 4 the certificate of incorporation, along with all accompanying  
 5 documents.

6 (g) The certificate of registration takes effect upon the issuance of  
 7 the certificate of incorporation by the ~~secretary of state~~, **department**,  
 8 and remains in effect until January 31 following the date of  
 9 incorporation.

10 SECTION 163. IC 23-1.5-3-6 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) A  
 12 professional corporation shall file a copy of its articles of incorporation,  
 13 certified by the ~~secretary of state~~, **department**, with the bureau.  
 14 Thereafter, the corporation shall file with the bureau certified copies of  
 15 all amendments to its articles of incorporation, including articles of  
 16 acceptance and all articles of merger to which the corporation is a  
 17 party.

18 (b) A professional corporation shall notify the bureau of a change  
 19 in the ownership of any of the shares in the professional corporation or  
 20 a change in its business address within thirty (30) days after the date of  
 21 the change. Notice of change in ownership must contain the names and  
 22 post office addresses of the transferor shareholder and the transferee  
 23 shareholder, and notice of change of business address must contain the  
 24 street address of the old location and the street address of the new  
 25 location.

26 SECTION 164. IC 23-1.5-4-5 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) The board  
 28 of directors or trustees of a corporation desiring to accept this article  
 29 shall, by a resolution adopted by a majority vote of the board, approve  
 30 articles of acceptance setting forth the following information:

- 31 (1) The name of the corporation.  
 32 (2) The location of its principal office and the name and address  
 33 of its resident agent.  
 34 (3) The date of its incorporation.  
 35 (4) A designation of the law under which it was organized.  
 36 (5) A declaration that it accepts all of the terms and provisions of  
 37 this article.  
 38 (6) A restatement of those provisions of its articles of  
 39 incorporation or association that it desires to have continued in  
 40 effect, as long as the provisions restated would have been  
 41 authorized by this article as provisions of original articles of  
 42 incorporation for a corporation organized under this article.



Failure to restate such provisions in the articles of acceptance constitutes nonconformance to law, and the ~~secretary of state~~ **department** shall refuse to file these articles of acceptance. Any provision not stated in its articles of acceptance is not effective after the articles are filed; however, this subdivision does not prevent any corporation from adopting and filing amended articles of acceptance that make the articles conform to this subdivision. Amended articles of acceptance shall be filed and recorded in the same manner as required for original articles of acceptance.

(b) The resolution of the board of directors approving the articles of acceptance must direct that the articles be submitted to a vote of those members of the corporation who are entitled to vote in respect to the articles, at a designated meeting, which may be an annual meeting of members or a special meeting of those members who are entitled to vote. If the designated meeting is an annual meeting, notice of the submission of the articles of acceptance shall be included in the notice of the annual meeting. If it is a special meeting, it shall be called by the resolution designating the meeting and notice shall be given at the time and in the manner provided in IC 23-17-10.

(c) The articles of acceptance approved by the board of directors shall be submitted to a vote of the members as provided in subsection (b). To be adopted, they must receive the affirmative votes of two-thirds (2/3) of the members entitled to vote.

(d) Upon approval and adoption, the articles of acceptance:

(1) shall be signed in duplicate, in the form prescribed by the ~~secretary of state~~, **department**, by any current officer of the corporation and verified and affirmed subject to penalties for perjury; and

(2) shall be presented in duplicate to the ~~secretary of state at his office~~, **department**, accompanied by those fees prescribed by law.

SECTION 165. IC 23-1.5-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. Upon the presentation of the articles of acceptance, the ~~secretary of state~~, **department**, if he finds they conform to the requirements of section 5 of this chapter, shall endorse his approval upon both of the copies of the articles, and, when all fees have been paid as required by law, shall:

(1) file one (1) copy of the articles in his office;

(2) issue a certificate of acceptance; and

(3) return to the corporation the remaining copy of the articles of acceptance, bearing the endorsement of his approval, together

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with the certificate of acceptance.

SECTION 166. IC 23-1.5-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. The acceptance becomes effective upon issuance of a certificate of acceptance by the ~~secretary of state~~ **department**. The corporation is entitled to all rights and privileges and is subject to all penalties, liabilities, and restrictions provided by this article granted to or imposed upon corporations organized under this article. The articles of incorporation shall be considered to be amended to the extent, if any, that any provision or provisions of the articles are restated in the articles of acceptance.

SECTION 167. IC 23-1.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. The certificate of admission of any foreign corporation admitted to render professional services in Indiana may be revoked at any time by the ~~secretary of state~~ **department**:

(1) as provided by IC 23-1-51; or

(2) for failure to comply with this article.

SECTION 168. IC 23-2-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 1.5. As used in this article, "department" refers to the department of financial institutions established by IC 28-11-1-1.**

SECTION 169. IC 23-2-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) A security may be registered by qualification.

(b) A registration statement under this section shall be filed with the commissioner, shall contain the following information, and shall be accompanied by the following documents in addition to the information specified in section 6(e) of this chapter and the consent to service of process required by section 16 of this chapter:

(1) A copy of the prospectus or offering circular to be used as of the effective date in connection with the offering that must include the following:

(A) With respect to the issuer and a significant subsidiary of the issuer:

(i) the issuer's name, address, and form of organization;

(ii) the state or foreign jurisdiction and date of the issuer's organization;

(iii) the general character and location of the issuer's business;

(iv) a description of the issuer's physical properties and equipment; and



(v) a statement of the general competitive conditions in the industry or business in which the issuer is or will be engaged.

(B) With respect to a director and officer of the issuer, or person occupying a similar status or performing similar functions:

(i) the person's name, address, principal occupation, and personal and business history for the past ten (10) years;

(ii) the amount of securities of the issuer held by the person as of a specified date within thirty (30) days of the filing of the registration statement;

(iii) the amount of the securities covered by the registration statement to which the person has indicated the person's intention to subscribe; and

(iv) a description of a material interest in any material transaction with the issuer or an affiliated corporation effected within the past three (3) years or proposed to be effected.

(C) With respect to persons covered by clause (B), the remuneration paid during the past twelve (12) months and estimated to be paid during the next twelve (12) months, directly or indirectly, by the issuer (together with all predecessors, parents, subsidiaries, and affiliates of the issuer) to all the persons in the aggregate.

(D) With respect to a person owning of record or beneficially, if known, ten percent (10%) or more of the outstanding shares of a class of equity security of the issuer, the information specified in clause (B) other than the person's occupation.

(E) With respect to a promoter, if the issuer was organized within the past three (3) years, the information specified in clause (B), an amount paid to the promoter within that period or intended to be paid to the promoter, and the consideration for any payments.

(F) With respect to a person on whose behalf a part of the offering is to be made in a nonissuer distribution:

(i) the person's name and address;

(ii) the amount of securities of the issuer held by the person as of the date of the filing of the registration statement;

(iii) a description of a material interest in a material transaction with the issuer or a significant subsidiary effected within the past three (3) years or proposed to be effected; and



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(iv) a statement of the person's reasons for making the offering.

(G) The capitalization and long term debt (on both a current and a pro forma basis) of the issuer and a significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, goodwill, or anything else) for which the issuer or a subsidiary has issued any of its securities within the past two (2) years or is obligated to issue any of its securities.

(H) The kind and amount of securities to be offered, the proposed offering price or the method by which it is to be computed, a variation from the price at which a proportion of the offering is to be made to a person or class of persons other than the underwriters, with a specification of the person or class, the basis upon which the offering is to be made if the basis is for something other than cash, the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering) or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts, the estimated amounts of other selling expenses, including legal, engineering, and accounting charges, the name and address of each underwriter and each recipient of a finder's fee, and a description of the plan of distribution of the securities to be offered.

(I) The estimated cash proceeds to be received by the issuer from the offering, the purposes for which the proceeds are to be used by the issuer, the amount to be used for each purpose, the order or priority in which the proceeds will be used for the purposes stated, the amounts of funds to be raised from other sources to achieve the purposes stated, the sources of the funds, and, if a part of the proceeds is to be used to acquire any property (including goodwill) otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of persons who have received commissions in connection with the acquisition, the amounts of any commissions, and any other expense in connection with the acquisition (including the cost of borrowing money to finance the acquisition).

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(J) A description of stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of the options held or to be held by a person required to be named in clause (B), (D), (E), (F), or (H) and by a person who holds or will hold ten percent (10%) or more in the aggregate of the options.

(K) The dates of, parties to, and general effect concisely stated of, a management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the registration statement or was made within the past two (2) years, together with a copy of the contract and a description of any pending litigation or proceeding to which the issuer is a party and that materially affects the issuer's business or assets (including any litigation or proceeding known to be contemplated by government authorities).

(L) Condensed versions of the financial statements required under subdivision 6.

(M) The names of an accountant, engineer, appraiser, or other person who has prepared or certified a report or valuation used in connection with the offering.

(N) The name and address of counsel for the issuer, a nonissuer, and an underwriter.

(O) A statement on the front cover of the prospectus or offering circular in the size, type, and form, and located as the commissioner may by rule prescribe, to the effect that the Indiana securities division has not in any way passed upon the merits or qualifications of, or recommended or given approval to, the securities offered, or passed upon the accuracy or adequacy of the prospectus or offering circular.

(P) Additional information the commissioner requires by rule or order so that the prospectus meets the requirements of sections 3 and 12 of this chapter.

(2) Copies of pamphlets, circulars, form letters, advertisements, or other sales literature intended to be used in connection with the offering.

(3) A specimen or copy of the security being registered, a copy of the issuer's articles of incorporation, if not already on file with the ~~secretary of state~~, **department**, a copy of the issuer's bylaws as currently in effect, and a copy of an indenture or other instrument covering the security to be registered.

(4) A signed or conformed copy of an opinion of counsel as to the

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legality of the security being registered (with an English translation if it is in a foreign language), that shall state whether the security when sold will be legally issued, fully paid, and nonassessable, and, if a debt security, a binding obligation of the issuer.

(5) The written consent of an accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by the person, if the person is named as having prepared or certified a report or valuation (other than a public and official document or statement) that is used in connection with the registration statement.

(6) The following financial statements prepared in accordance with generally accepted accounting principles applied on a consistent basis shall be furnished:

(A) A balance sheet of the issuer as of the close of its last fiscal year, certified by an independent certified or public accountant or firm of accountants.

(B) Statements of income and changes in financial position for each of the last three (3) fiscal years or for the period of the issuer's and any predecessor's existence, if less than three (3) years, certified by an independent certified or public accountant or firm of accountants.

(C) An interim balance sheet as of the close of the last fiscal quarter ending forty-five (45) or more days prior to the date of filing, and statements of income and change in financial position for the period between the dates of the audited and interim balance sheets.

(D) If a part of the proceeds of the offering is to be applied to the purchase of a business, the same financial statements that would be required if that business were the registrant.

(7) A copy of an underwriting or selling group agreement under which the distribution is to be made, or the proposed form of the agreement whose terms have not yet been determined, and a description of the plan of distribution of securities that are to be offered otherwise than through an underwriter.

(8) A copy of a management or other material contract made or to be made otherwise than in the ordinary course of business, if it is to be performed in whole or in part, at or after the filing of the registration statement or was made within the past two (2) years.

(9) Additional information as the commissioner requires by rule or order.

(c) Except as otherwise provided, the effective date of a registration

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statement under this section shall be the thirtieth day after the filing of the statement or an earlier date as the commissioner may determine, having due regard to the adequacy of the information respecting the issuer already available to the public, to the facility with which the nature of the securities to be registered, the security's relationship to the capital structure of the issuer, and the rights of holders of the securities can be understood, to the public interest, and to the protection of investors. If an amendment to a statement is filed before the effective date of the statement, the registration statement shall be considered to have been filed when the amendment was filed, except that an amendment filed with the consent of the commissioner before the effective date of the registration statement, or filed pursuant to an order of the commissioner, shall be treated as a part of the registration statement.

(d) The commissioner shall require as a condition of registration of a security under this section that an adequate prospectus be sent or given to each person to whom an offer is made or from whom an offer to buy is solicited before or concurrently with:

- (1) the first written offer or the first written solicitation of an offer to buy made to the person (otherwise and by means of a public advertisement) by or for the account of the issuer or a person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by the underwriter or broker-dealer as a participant in the distribution;
- (2) the confirmation of a sale made by or for the account of the person;
- (3) payment pursuant to the sale; or
- (4) delivery of the security pursuant to the sale;

whichever first occurs. The prospectus shall be adequate if it contains all of the information specified in subsection (b)(1). So long as an offering continues, the prospectus shall be revised and brought current by the filing of an amended prospectus at least once every twelve (12) months after the registration statement becomes effective and so long as the offering is not discontinued.

(e) The commissioner shall require, as a condition of registration by an issuer of securities under this section, that the issuer shall subsequently furnish, not less often than annually financial reports to the holders of the issuer's securities, containing information the commissioner shall require by rule or order, including with respect to an issuer that is a business trust or real estate investment trust, information concerning transactions with an officer, director, person



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1 holding a similar position with the issuer, or any other affiliated person  
 2 as defined by the commissioner, and information disclosing the source  
 3 of distributions from capital made to the holders of its securities.

4 SECTION 170. IC 23-2-1-15 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. (a) This  
 6 chapter shall be administered by a division of the ~~office of the secretary~~  
 7 ~~of state: department.~~ The ~~secretary of state~~ **department** shall appoint  
 8 a securities commissioner who shall be responsible for the direction  
 9 and supervision of the division and the administration of this chapter  
 10 under the direction and control of the ~~secretary of state:~~ **department.**  
 11 The salary of the securities commissioner shall be paid out of the funds  
 12 appropriated for the administration of this chapter. The commissioner  
 13 shall serve at the will of the ~~secretary of state:~~ **department.**

14 (b) The ~~secretary of state:~~ **department:**

15 (1) shall employ a chief deputy, a senior investigator, a senior  
 16 accountant, and other deputies, investigators, accountants, clerks,  
 17 stenographers, and other employees necessary for the  
 18 administration of this chapter; and

19 (2) shall fix their compensation with the approval of the budget  
 20 agency.

21 The chief deputy, other deputies, the senior investigator, and the senior  
 22 accountant, once employed under this chapter, may be dismissed only  
 23 for cause by the ~~secretary of state~~ **department** upon ten (10) days  
 24 notice in writing stating the reasons for dismissal. Within fifteen (15)  
 25 days after dismissal, the chief deputy, other deputies, the senior  
 26 investigator, and the senior accountant may appeal to the state  
 27 personnel board. The state personnel board shall hold a hearing, and if  
 28 it finds that the appealing party was dismissed for a political, social,  
 29 religious, or racial reason, the appealing party shall be reinstated to the  
 30 appealing party's position without loss of pay. In all other cases, if the  
 31 decision is favorable to the appealing party, the ~~secretary of state~~  
 32 **department** shall follow the findings and recommendations of the  
 33 board, which may include reinstatement and payment of salary or  
 34 wages lost. The hearing and any subsequent proceedings or appeals  
 35 shall be governed by the provisions of IC 4-15-2 and IC 4-21.5.

36 (c) Fees and funds of whatever character accruing from the  
 37 administration of this chapter shall be accounted for by the ~~secretary of~~  
 38 ~~state~~ **department** and shall be deposited with the treasurer of state to  
 39 be deposited by the treasurer of state in the general fund of the state.  
 40 Expenses incurred in the administration of this chapter shall be paid  
 41 from the general fund upon appropriation being made for the expenses  
 42 in the manner provided by law for the making of those appropriations.



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1 However, costs of investigations recovered under sections 16(d) and  
 2 17.1(c) of this chapter shall be deposited with the treasurer of state to  
 3 be deposited by the treasurer of state in a separate account to be known  
 4 as the securities division enforcement account. The funds in the  
 5 account shall be available, with the approval of the budget agency, to  
 6 augment and supplement the funds appropriated for the administration  
 7 of this chapter. The funds in the account do not revert to the general  
 8 fund at the end of any fiscal year.

9 (d) In connection with the administration and enforcement of the  
 10 provisions of this chapter, the attorney general shall render all  
 11 necessary assistance to the securities commissioner upon the  
 12 commissioner's request, and to that end, the attorney general shall  
 13 employ legal and other professional services as are necessary to  
 14 adequately and fully perform the service under the direction of the  
 15 securities commissioner as the demands of the securities division shall  
 16 require. Expenses incurred by the attorney general for the purposes  
 17 stated in this subsection shall be chargeable against and paid out of  
 18 funds appropriated to the attorney general for the administration of the  
 19 attorney general's office.

20 (e) Neither the ~~secretary of state~~, **department**, the securities  
 21 commissioner, nor an employee of the securities division shall be liable  
 22 in their individual capacity, except to the state, for an act done or  
 23 omitted in connection with the performance of their respective duties  
 24 under this chapter.

25 (f) The commissioner, subject to the approval of the ~~secretary of~~  
 26 ~~state~~, **department**, may adopt rules, orders, and forms necessary to  
 27 carry out this chapter, including rules and forms concerning registration  
 28 statements, applications, reports, and the definitions of any terms if the  
 29 definitions are consistent with this chapter. The commissioner may by  
 30 rule or order allow for exemptions from registration requirements under  
 31 sections 3 and 8 of this chapter if the exemptions are consistent with  
 32 the public interest and this chapter.

33 (g) The provisions of this chapter delegating and granting power to  
 34 the ~~secretary of state~~, **department**, the securities division, and the  
 35 securities commissioner shall be liberally construed to the end that:

- 36 (1) the practice or commission of fraud may be prohibited and  
 37 prevented;
- 38 (2) disclosure of sufficient and reliable information in order to  
 39 afford reasonable opportunity for the exercise of independent  
 40 judgment of the persons involved may be assured; and
- 41 (3) the qualifications may be prescribed to assure availability of  
 42 reliable broker-dealers, investment advisers, and agents engaged



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1 in and in connection with the issuance, barter, sale, purchase,  
2 transfer, or disposition of securities in this state.

3 It is the intent and purpose of this chapter to delegate and grant to and  
4 vest in the ~~secretary of state, department,~~ the securities division, and  
5 the securities commissioner full and complete power to carry into effect  
6 and accomplish the purpose of this chapter and to charge them with full  
7 and complete responsibility for its effective administration.

8 (h) It is the duty of a prosecuting attorney, as well as of the attorney  
9 general, to assist the securities commissioner upon the commissioner's  
10 request in the prosecution to final judgment of a violation of the penal  
11 provisions of this chapter and in a civil proceeding or action arising  
12 under this chapter. If evidence concerning violations of this chapter or  
13 a rule or order under this chapter is referred to a prosecuting attorney,  
14 the prosecuting attorney shall within ninety (90) days file with the  
15 securities commissioner a written statement concerning an action taken  
16 or, if no action has been taken, the reasons no action has been taken.

17 (i) The securities commissioner shall take, prescribe, and file the  
18 oath of office prescribed by law. The securities commissioner, senior  
19 investigator, and each deputy are police officers of the state and shall  
20 have all the powers and duties of police officers in making arrests for  
21 violations of this chapter, or in serving any process, notice, or order  
22 connected with the enforcement of this chapter by whatever officer or  
23 authority or court issued. The securities commissioner, the deputy  
24 commissioners for enforcement, and the investigators comprise the  
25 enforcement department of the division and are considered a criminal  
26 justice agency for purposes of IC 5-2-4 and IC 5-2-5.

27 (j) The securities commissioner and each employee of the securities  
28 division shall be reimbursed for necessary hotel and travel expenses  
29 when required to travel on official duty. Hotel and travel  
30 reimbursements shall be paid in accordance with the travel regulations  
31 prescribed by the budget agency.

32 (k) It is unlawful for the ~~secretary of state, department,~~ the  
33 securities commissioner, or the securities division's employees to use  
34 for personal benefit information that is filed with or obtained by the  
35 securities division and that is not made public. No provision of this  
36 chapter authorizes the ~~secretary of state, department,~~ the securities  
37 commissioner, or the employees of the securities division to disclose  
38 information except among themselves, or when necessary or  
39 appropriate, in a proceeding or investigation under this chapter. No  
40 provision of this chapter either creates or derogates from a privilege  
41 that exists at common law or otherwise when documentary or other  
42 evidence is sought under a subpoena directed to the ~~secretary of state,~~



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1 **the department**, the securities commissioner, or the securities division  
2 or its employees.

3 (l) The commissioner may honor requests from interested persons  
4 for interpretative opinions and from interested persons for  
5 determinations that the commissioner will not institute enforcement  
6 proceedings against specified persons for specified activities. A  
7 determination not to institute enforcement proceedings must be  
8 consistent with this chapter. The commissioner shall charge a fee of  
9 one hundred dollars (\$100) for an interpretative opinion or  
10 determination.

11 SECTION 171. IC 23-2-1-16 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 16. (a) With the  
13 filing of any application for registration pursuant to this chapter, there  
14 shall be filed the irrevocable written consent of the applicant that suits  
15 and actions growing out of the violation of any provision or provisions  
16 of this chapter may be commenced against the applicant in the proper  
17 courts of any county in this state in which a cause of action may arise,  
18 or in which the plaintiff may reside, by the service of any process or  
19 pleading authorized by the laws of this state upon the ~~secretary of state~~.  
20 **attorney general**. The consent must stipulate and agree that service of  
21 process or pleadings on the ~~secretary of state~~ **attorney general** shall be  
22 taken and held in all courts to be as valid and binding as if due service  
23 has been made upon the applicant. The written consent shall be  
24 authenticated by:

25 (1) the seal of the applicant if the applicant has a seal; and

26 (2) the acknowledged signature of:

27 (A) the members of the partnership, or the depositors,  
28 managers, or committee;

29 (B) any officers of the corporation, or of the incorporated or  
30 unincorporated association if the applicant be an incorporated  
31 or unincorporated association, duly authorized by resolution of  
32 the board of directors, trustees, or managers of the corporation  
33 or association, and accompanied by a duly certified copy of the  
34 resolution of the board of directors, trustees, or managers of  
35 the corporation or association authorizing the officers to  
36 execute the same; or

37 (C) any members or managers of the limited liability company,  
38 duly authorized by the members and managers of the limited  
39 liability company and accompanied by a duly certified copy of  
40 the resolution of the members or managers of the limited  
41 liability company which authorizes the members or managers  
42 to execute the same.



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(b) The engaging in this state by a nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, in any transaction, or the doing of any business in this state involving a sale of securities, or an offer to sell securities, shall be deemed equivalent to an appointment by the nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, of the ~~secretary of state~~, **attorney general** or his successor in office, to be his true and lawful attorney upon whom may be served any lawful process, writ, notice, or order, in any action or proceeding against such nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, arising or growing out of any transaction, or of the doing of any business involving a sale of securities, or offer to sell securities in this state. The engaging in any such transaction, or the doing of any such business in this state, shall be signification of the agreement of such nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, that any process, writ, notice, or order against him which is so served shall be of the same legal force and effect as if served upon such nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller personally. Any action or proceeding against a nonresident broker-dealer, agent, issuer, offeror, or seller, may be instituted or commenced in the proper court of any county in this state in which the nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, shall have engaged in any transaction or shall have done any business in this state involving a sale of securities, or an offer to sell securities, or in the county in which the person bringing the action may reside.

(c) The service of any process, writ, notice, or order against an applicant not domiciled in this state, or against a nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, shall be made by leaving duplicate copies thereof with a fee of two dollars (\$2) with the ~~secretary of state~~, **attorney general**, or in his office, and the service shall be deemed sufficient service, if the notice of service and a copy of the process, writ, notice, or order are forthwith sent by registered mail with return receipt requested, addressed to the person so served at the address disclosed upon any such written consent that may have been filed in the office of the ~~secretary of state~~, **attorney general** or as disclosed upon any written notification of address filed by the person to be served, or if no address is filed in the office of the ~~secretary of state~~, **attorney general** then at any other address, if any, known or disclosed to the ~~secretary of state~~, **attorney general**. Upon return of the return receipt showing delivery and the acceptance of the registered mail, or upon the return of the registered mail showing a

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1 refusal of the acceptance, the ~~secretary of state~~ **attorney general** shall  
 2 attach either the return receipt or the refused mail to the copy of the  
 3 process, writ, notice, or order retained by him, and mail the same to the  
 4 clerk of the court in which the action or proceeding is pending in  
 5 respect to which the process, writ, notice, or order was issued, or the  
 6 ~~secretary of state~~ **attorney general** shall return the copy of the process,  
 7 writ, notice, or order to the clerk with the advice, if such be the case,  
 8 that no address to which the process, writ, notice, or order may be  
 9 mailed is known to the ~~secretary of state~~ **attorney general**. The clerk  
 10 of the court shall thereupon file the same, and the same shall be  
 11 deemed a part of the record in the action or proceeding without a  
 12 special bill of exceptions therefor. Refusal of any person to accept  
 13 delivery of the registered mail provided in this section, or the refusal  
 14 to sign the return receipt, or the ignorance of the ~~secretary of state~~  
 15 **attorney general** of any address to which process, writ, notice, or order  
 16 may have been mailed, shall not in any manner affect the legality or  
 17 effect of service, and the person shall be presumed to have had  
 18 knowledge of the contents of any process, writ, notice, or order  
 19 contained therein, or issued in connection with any proceeding  
 20 resulting from the transaction in which the person may have  
 21 participated in this state. No process, writ, notice, or order served in  
 22 this section provided shall be returnable in less than twenty (20) days  
 23 from the date the same shall have been issued.

24 (d) The securities division is authorized to make investigations and  
 25 examinations:

- 26 (1) in connection with any application for registration of any
- 27 security, broker-dealer, investment advisor, or agent, or any
- 28 registration thereof already granted; or
- 29 (2) whenever it appears to the commissioner upon the basis of a
- 30 complaint or information that reasonable grounds exist for the
- 31 belief that an investigation or examination is necessary or
- 32 advisable for the more complete protection of the interests of the
- 33 public.

34 On investigations and examinations made by the commissioner or an  
 35 employee of the securities division, all reasonable expenses, including,  
 36 but not limited to, a per diem prorated upon the salary of such  
 37 commissioner or employee together with the actual traveling and hotel  
 38 expenses, may be charged as costs of the investigation or examination  
 39 to be paid by the party or parties under investigation or examination.  
 40 Before a hearing on the matter under investigation, the commissioner  
 41 may require the posting of a bond in the penal sum of five hundred  
 42 dollars (\$500), or in such other additional amount as may be required



1 to guarantee the payment of the costs of the investigation and hearing,  
 2 to the state of Indiana with sufficient surety to be approved by the  
 3 commissioner.

4 (e) The ~~secretary of state~~ **department** or the commissioner shall  
 5 have the power to sign all orders, official certifications, documents, or  
 6 papers, under any of the provisions of this chapter. The commissioner  
 7 shall have the power to:

8 (1) hold and conduct hearings before the commissioner or  
 9 authorize the same to be held before any other representative of  
 10 the securities division in any county in the state of Indiana;

11 (2) hear evidence;

12 (3) conduct inquiries with or without hearings;

13 (4) receive reports of investigators or other officers or employees  
 14 of the state of Indiana, or of any municipal corporation within the  
 15 state or governmental subdivision;

16 (5) administer oaths, or cause them to be administered;

17 (6) subpoena witnesses, and compel them to attend and testify;  
 18 and

19 (7) to compel the production of books, records, and other  
 20 documents.

21 (f) Upon:

22 (1) disobedience on the part of any person to any lawful subpoena  
 23 issued under authority of this chapter, or to any lawful order or  
 24 demand requiring the production of any books, accounts, papers,  
 25 records, documents, or other evidence or information as provided  
 26 in this chapter; or

27 (2) the refusal of any witness to appear when subpoenaed, or to  
 28 testify to any matter regarding which he may be lawfully  
 29 interrogated, or to take or subscribe to any oath required by this  
 30 chapter;

31 it shall be the duty of the circuit or superior court of the county in  
 32 which the hearing or inquiry or investigation in question is being or is  
 33 to be held, where demand is made, or where said production is ordered  
 34 to be made, upon written petition of the commissioner, to compel  
 35 obedience to the lawful requirements of the subpoena, order, or  
 36 demand, to compel the production of the necessary or required books,  
 37 papers, records, documents, and other evidence and information, to  
 38 compel any witness to attend in any county within this state and to  
 39 testify to any matter regarding which he may lawfully be interrogated,  
 40 and to take or subscribe to any oath required, and, upon the failure,  
 41 refusal, or neglect of any person to comply with any order of any court  
 42 or judge thereof, as provided in this section, such person shall be

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1 punished for contempt of court.

2 (g) If a witness, in any hearing, inquiry, or investigation conducted  
3 under this chapter, refuses to answer any question or produce any item,  
4 the commissioner may file a written petition with the circuit or superior  
5 court in the county where the hearing, investigation, or inquiry in  
6 question is being conducted requesting a hearing on the refusal. The  
7 court shall hold a hearing to determine if the witness may refuse to  
8 answer the question or produce the item. If the court determines that  
9 the witness, based upon his privilege against self-incrimination, may  
10 properly refuse to answer or produce an item, the commissioner may  
11 make a written request that the court grant use immunity to the witness.  
12 Upon written request of the commissioner, the court shall grant use  
13 immunity to a witness. The court shall instruct the witness, by written  
14 order or in open court, that:

15 (1) any evidence the witness gives, or evidence derived from that  
16 evidence, may not be used in any criminal proceedings against  
17 that witness, unless the evidence is volunteered by the witness or  
18 is not responsive to a question; and

19 (2) the witness must answer the questions asked and produce the  
20 items requested.

21 A grant of use immunity does not prohibit the use of evidence that the  
22 witness gives in a hearing, investigation, or inquiry from being used in  
23 a prosecution for perjury under IC 35-44-2-1. If a witness refuses to  
24 give the evidence after he has been granted use immunity, the court  
25 may find him in contempt.

26 (h) Upon order of the commissioner or his representative in any  
27 hearing, depositions may be taken of any witness residing within or  
28 without the state. The depositions shall be taken in the manner  
29 prescribed by law for depositions in civil actions and made returnable  
30 to the commissioner or his representative.

31 (i) Each witness who shall appear before the commissioner or his  
32 representative by order shall receive for his attendance the fees and  
33 mileage provided for witnesses in civil cases, which shall be audited  
34 and paid by the state in the same manner as other expenses of the  
35 securities division are audited and paid upon the presentation of proper  
36 vouchers sworn to by the witnesses and approved by the commissioner.  
37 However, no witnesses subpoenaed at the instance of parties other than  
38 the commissioner or his representative shall be entitled to any fee or  
39 compensation from the state.

40 (j) It is not necessary to negative any of the exemptions or  
41 classifications in this chapter provided in any complaint, information,  
42 indictment, or any other writ or proceedings laid or brought under this

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chapter, and the burden of proof of any exemption or classification shall be upon the party claiming the benefits of the exemption or classification.

(k) In any prosecution, action, suit, or proceeding based upon or arising out of or under the provisions of this chapter, a certificate duly signed by the commissioner showing compliance or noncompliance with the provisions of this chapter respecting the security in question or respecting compliance or noncompliance with the provisions of this chapter, by any issuer, broker-dealer, investment advisor, or agent, shall constitute ~~prima facie~~ **facie** evidence of compliance or noncompliance with the provisions of this chapter, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this chapter.

(l) Copies of any statement and documents filed ~~in with the office of the secretary of state department~~ and of any records of the ~~secretary of state department~~ certified to by the commissioner or any deputy shall be admissible in any prosecution, action, suit, or proceeding based upon, or arising out of, or under the provisions of this chapter to the same effect as the original of such statement, document, or record would be if actually produced.

(m) Whenever, under the provisions of this chapter, any person is entitled to receive notice or required to be served with notice in any proceeding instituted by the commissioner pursuant to the provisions of this chapter, notice shall be deemed sufficient:

(1) if sent by registered mail with return receipt requested to that person or his designated attorney or agent for service of process at:

(A) his last known residence;

(B) his last known place of business; or

(C) the last known address at which he purports to receive mail;

(2) if personally delivered and left with a person of suitable age or in a conspicuous place at:

(A) his last known residence;

(B) his last known place of business; or

(C) the last known address at which he purports to receive mail; or

(3) by personal service on the person.

SECTION 172. IC 23-2-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 21. Nothing in this chapter shall be construed to relieve corporations from making reports required by law to be made to the ~~secretary of state~~;



1 **department of commerce** or any other state officer, or paying the fees  
 2 to be paid by corporations. This chapter shall not be construed to repeal  
 3 any law regulating the organization of corporations in this state, or the  
 4 admission of any foreign corporation, but the provisions of this chapter  
 5 shall be construed to be additional to any provisions regulating the  
 6 organization of a corporation under the laws of this state, or the  
 7 admission of a foreign corporation to do business in this state.

8 SECTION 173. IC 23-2-2.5-10 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. An  
 10 application for registration shall include:

11 (a) the name of the franchisor, the name, trade name, and trademark  
 12 or service mark under which the franchisor is doing or intends to do  
 13 business, and the name of any affiliate of the franchisor which the  
 14 franchisor recommends or will recommend to franchisees as a supplier  
 15 of goods or services or in connection with other business transactions  
 16 of franchisees;

17 (b) the franchisor's principal business address and the name and  
 18 address of its agent in Indiana authorized to receive process;

19 (c) the business form of the franchisor and the jurisdiction under  
 20 which the franchisor is organized;

21 (d) the names of the directors or persons performing similar  
 22 functions and names and addresses of the chief executive officers, and  
 23 the financial, accounting, franchise sales, and other principal executive  
 24 officers, if the franchisor is a corporation, association, or other entity,  
 25 of all general partners, if the franchisor is a partnership, of all members  
 26 and managers, if any, if the franchisor is a limited liability company,  
 27 and of the franchisor, if the franchisor is an individual, together with a  
 28 statement of the business background of each such person for the past  
 29 five (5) years;

30 (e) a statement as to whether any person identified in the  
 31 application:

32 (1) has during the five (5) year period immediately preceding the  
 33 date of application been convicted of a felony, pleaded nolo  
 34 contendere to a felony charge, or been held liable in a civil action  
 35 by final judgment, if such felony or civil action involved fraud,  
 36 embezzlement, misappropriation of property, or the violation of  
 37 any state or federal statute involving the offer or sale of securities  
 38 or franchises, and a description thereof;

39 (2) is subject to any currently effective order affecting the  
 40 franchise resulting from a proceeding or pending action brought  
 41 by any individual or public agency or department, and a copy of  
 42 that order;



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(3) is a defendant in any pending criminal or material civil proceeding, and a copy thereof;

(4) has during the five (5) year period immediately preceding the date of application had entered against him a final judgment in any material civil action, and a description thereof; or

(5) is the franchisor or a principal executive officer or general partner of the franchisor and has during the five (5) year period immediately preceding the date of application reorganized due to insolvency or been adjudicated as a bankrupt during that five (5) year period, and a description thereof;

(f) the length of time the franchisor or any predecessor of the franchisor: (1) has conducted a business of the type to be conducted by the franchisees; (2) has granted franchises for such business; or (3) has granted franchises in other lines of business;

(g) a statement describing the trademarks, service marks, trade names and other commercial symbols to be used by the franchisee, which statement shall include:

(1) whether any of such trademarks and service marks are registered with the United States Patent Office or the ~~secretary of state of Indiana~~; **department of commerce**;

(2) whether any interference, opposition or cancellation proceedings and any material litigation involving any such trademarks, service marks, trade names or commercial symbols are pending; and

(3) whether any contracts are in effect which materially limit the rights of the franchisor with respect to any such trademarks, service marks, trade names or commercial symbols; a statement of the franchisor's obligations to protect all rights which the franchisee has to use such trademarks, service marks, trade names and commercial symbols and to protect the franchisee against claims of infringement and unfair competition;

(h) a balance sheet of the franchisor, certified by an independent certified public accountant, as of the close of the most recent fiscal year of the franchisor unless it is furnished as of a date within ninety (90) days following the close of the fiscal year of the franchisor, in which case the statement for the preceding fiscal year may be used together with a statement of any material changes in the financial condition of the franchisor since the date of the statement provided. The commissioner may, in his discretion, waive the requirement for certified statements for franchisors who have not previously had such certified audits provided that such franchisors file certified statements for the fiscal year during which their disclosure statements are filed



1 within sixty (60) days following the conclusion of the fiscal year;

2 (i) a description of the business which is the subject of the franchise,  
3 and a description of the franchise, including a description of the goods,  
4 training programs, supervision, advertising, promotion and other  
5 services provided by the franchisor and a description of the method  
6 utilized and the responsibilities of the franchisor or the franchisee in  
7 determining the location and in acquiring the premises, if any, for the  
8 franchisee's business;

9 (j) a statement of the initial franchise fee charged, the proposed  
10 application of the proceeds of such fee by the franchisor and the  
11 formula by which the amount of such fee is determined if not uniform;  
12 a statement indicating whether and under what conditions all or part of  
13 the initial franchise fee may be returned to the franchisee; and a  
14 description of the estimated total investment to be made by the  
15 franchisee, including without limitation, lease and installment purchase  
16 obligations;

17 (k) a description of all other franchise fees to be paid by the  
18 franchisee and a statement describing any payments or fees other than  
19 franchise fees that the franchisee is required to pay to the franchisor or  
20 its affiliates, including payments of fees which the franchisor collects  
21 in whole or in part on behalf of a third party or parties;

22 (l) a statement of whether the franchisee is required to purchase  
23 from the franchisor or his affiliates or designees services, supplies,  
24 products, fixtures, or other goods relating to the establishment or  
25 operation of the franchise business, together with a description thereof  
26 and a statement of whether and of the means by which the franchisor  
27 derives income from such purchases;

28 (m) a statement as to whether the franchisee is limited in the goods  
29 or services he may offer to his customers;

30 (n) a statement of the terms and conditions of any financing  
31 arrangements when offered directly or indirectly by the franchisor or  
32 his affiliate, including a description of any waiver of defenses or  
33 similar provisions in any note, contract or other instrument to be  
34 executed by the franchisee; and a statement of any past or present  
35 practice, or of any intent, of the franchisor to sell, assign, or discount  
36 to a third party, in whole or in part, any note, contract or other  
37 instrument executed by the franchisee;

38 (o) a copy of any statement of estimated sales or earnings prepared  
39 for presentation to prospective franchisees, together with a statement  
40 setting forth the data upon which the estimates are based, including,  
41 where applicable, data with respect to the sales and earnings history of  
42 existing franchisees, as a group, including the sales and earnings of the

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1 least profitable and most profitable of such existing franchises, without  
2 naming them;

3 (p) a statement of any compensation or other benefit given or  
4 promised to a public figure arising, in whole or in part, from: (1) the  
5 use of the public figure in the name or symbol of the franchise; or (2)  
6 the endorsement or recommendation of the franchise by the public  
7 figure in any advertisement;

8 (q) a statement of the number of franchise businesses presently  
9 being operated by the franchisees and the number presently owned or  
10 being operated by the franchisor;

11 (r) a statement of whether the franchisor requires the franchisee to  
12 participate personally in the direct operation of the franchise operation;

13 (s) a statement as to whether franchisees are granted an area or  
14 territory within which the franchisor agrees not to operate or grant  
15 additional franchises for the operation of the franchise business or in  
16 which the franchisor will operate or grant franchises for the operation  
17 of no more than a specified number of additional franchise businesses;

18 (t) a statement of the conditions under which the franchise  
19 agreement may be terminated or renewal refused; a statement of the  
20 obligations of the franchisee upon termination or expiration of the  
21 franchise; a statement of the conditions and terms under which the  
22 franchise or the assets or ownership of the franchise business may be  
23 repurchased at the option of the franchisor and of any right of the first  
24 refusal or similar right which the franchisor has to repurchase the  
25 franchise or the assets or ownership of the franchise business; and, a  
26 statement of the conditions and terms under which the franchisee is  
27 permitted to sell or otherwise transfer the franchise, or the assets or  
28 ownership of the franchise business, or interests therein;

29 (u) a statement explaining the terms and effect of any covenant not  
30 to compete which is or will be included in the franchise or other  
31 agreement to be executed by the franchisee;

32 (v) a statement that the franchisor on request will make available a  
33 list of the names, addresses, and telephone numbers of all franchise  
34 businesses operating under contract with the franchisor located in  
35 Indiana and to the extent that there are less than ten (10) such franchise  
36 businesses located in Indiana, such list shall include at least ten (10)  
37 such franchise businesses located in Indiana and the nearest state or  
38 states to Indiana in which there are ten (10) such franchise businesses;  
39 and if there are less than ten (10) such franchise businesses located in  
40 Indiana and all other states, such list shall identify all such franchise  
41 businesses and include a statement to that effect; and

42 (w) a statement setting out any other facts which are, or may be,

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1 material to a prospective franchisee, or which the commissioner  
2 considers appropriate.

3 SECTION 174. IC 23-2-2.5-24 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 24. Every  
5 applicant for registration of an offer to sell franchises under this  
6 chapter shall file with the commissioner, in the form that the  
7 commissioner by rule or order prescribes, an irrevocable consent  
8 appointing the ~~secretary of state or any successor secretary of state~~  
9 **attorney general** to be the applicant's attorney to receive service of any  
10 lawful process in any noncriminal suit, action, or proceeding against  
11 the applicant or the applicant's successor, executor, or administrator  
12 that arises under this chapter or any rule or order under this chapter  
13 after the consent has been filed with the same force as if served  
14 personally on the person filing the consent. Service shall be made in  
15 accordance with the Indiana Rules of Civil Procedure.

16 SECTION 175. IC 23-2-2.5-38 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 38. When any  
18 person engages in conduct prohibited by this chapter, whether or not he  
19 has filed a consent to service of process under section 24 and personal  
20 jurisdiction over him cannot otherwise be obtained in this state, that  
21 conduct shall be considered equivalent to his appointment of the  
22 ~~secretary of state or his successor in office~~ **attorney general** to be his  
23 attorney to receive service of any lawful process in any civil action or  
24 proceeding against him or his successor or personal representative  
25 which grows out of that conduct and which is brought under this  
26 chapter, with the same force and validity as if served on him  
27 personally. Service shall be made in accordance with the Indiana Rules  
28 of Civil Procedure.

29 SECTION 176. IC 23-2-2.5-41 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 41. Copies of any  
31 statements and documents filed ~~in with the office of the secretary of~~  
32 ~~state department~~ and of any records of the ~~secretary of state~~  
33 **department** certified by the commissioner are admissible in any civil  
34 or criminal proceeding under this chapter to the same effect as the  
35 original of such statement, document or record would be if actually  
36 produced.

37 SECTION 177. IC 23-2-2.5-42 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 42. This chapter  
39 shall be administered by the ~~office of the secretary of state of Indiana~~  
40 **department** through the commissioner.

41 SECTION 178. IC 23-2-2.5-43 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 43. (a) All fees

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1 and funds of whatever character accruing from the administration of  
2 this chapter shall be:

3 (1) accounted for by the ~~secretary of state~~; **department**;

4 (2) paid into the state treasury monthly; and

5 (3) placed in the same account of the state general fund as  
6 established by IC 23-2-1-15(c), from which all compensation and  
7 expenses shall be paid for the administration of this chapter.

8 (b) The fee for filing an application for registration of the sale of  
9 franchises under section 9 is five hundred dollars (\$500).

10 (c) The fee for filing an application for renewal of a registration  
11 under section 18 is two hundred fifty dollars (\$250).

12 (d) When an application is denied or withdrawn, the commissioner  
13 shall retain one hundred fifty dollars (\$150) of the fee.

14 (e) The fee for filing a posteffective amendment to a valid  
15 registration under section 20 is fifty dollars (\$50).

16 SECTION 179. IC 23-2-2.5-45 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 45. In connection  
18 with the administration and enforcement of the provisions of this  
19 chapter, it is hereby made the duty of the attorney general of Indiana to  
20 render all necessary assistance to the commissioner upon his request,  
21 and to that end the attorney general shall employ such legal and such  
22 other professional services as shall be necessary to adequately and fully  
23 perform such service under the direction of the commissioner as the  
24 demands of the securities division shall require, and any expenses so  
25 incurred by the attorney general for the purposes aforesaid shall be  
26 chargeable against and paid out of the securities division fund and if  
27 such fund is insufficient for the payment of such expenses and any  
28 expenses of the securities division incident to the administration of this  
29 chapter, then a sufficient sum of money for the payment of any such  
30 deficiency is hereby appropriated annually out of any money received  
31 by the ~~secretary of state~~ **department of commerce** as fees for the  
32 incorporation and for the filing of the annual reports of corporations.

33 SECTION 180. IC 23-2-2.5-46 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 46. Neither the  
35 ~~secretary of state~~ **department** nor the commissioner, nor any employee  
36 of the securities division shall be liable in their individual capacity,  
37 except to the state of Indiana, for any act done or omitted in connection  
38 with the performance of their respective duties under the provisions of  
39 this chapter.

40 SECTION 181. IC 23-2-2.5-47 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 47. All provisions  
42 of this chapter delegating and granting power to the ~~secretary of state~~;

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1 **department**, the securities division and the commissioner shall be  
 2 liberally construed to the end that the practice or commission of fraud  
 3 may be prohibited and prevented, disclosure of sufficient and reliable  
 4 information in order to afford reasonable opportunity for the exercise  
 5 of independent judgment of the persons involved may be assured, in  
 6 connection with the issuance, barter, sale, purchase, transfer or  
 7 disposition of franchises in this state. It is the intent and purpose of this  
 8 chapter to delegate and grant to and vest in the ~~secretary of state,~~  
 9 **department**, the securities division and the commissioner full and  
 10 complete power to carry into effect and accomplish the purpose of this  
 11 chapter and to charge them with full and complete responsibility for the  
 12 effective administration thereof.

13 SECTION 182. IC 23-2-2.5-49 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 49. Nothing in  
 15 this chapter shall be construed to relieve corporations or other business  
 16 organizations from making reports now or hereafter required by law to  
 17 be made to the ~~secretary of state,~~ **department** or any other state officer,  
 18 or paying the fees now or hereafter to be paid by corporations or other  
 19 business organizations. This chapter shall not be construed to repeal  
 20 any law now in force regulating the organization of corporations or  
 21 other business organizations in Indiana, or the admission of any foreign  
 22 corporation but the provisions of this chapter shall be construed to be  
 23 additional to any provisions regulating the organization of a  
 24 corporation or other business organization under the laws of Indiana,  
 25 or the admission of a foreign corporation to do business in Indiana.

26 SECTION 183. IC 23-2-3.1-9 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) This chapter  
 28 shall be administered by the ~~secretary of state of Indiana~~ **department**  
 29 by and through the commissioner, who may exercise all powers granted  
 30 to him under IC 23-2-1.

31 (b) Subject to the approval of the ~~secretary of state,~~ **department**, the  
 32 commissioner may promulgate regulations necessary to carry out the  
 33 purposes of this chapter under IC 4-22-2.

34 (c) Neither the ~~secretary of state,~~ **department**, nor the securities  
 35 commissioner, nor any employee of the securities division, shall be  
 36 liable in their individual capacity, except to the state of Indiana, for any  
 37 act done or omitted in connection with the performance of their  
 38 respective duties under the provisions of this chapter.

39 SECTION 184. IC 23-2-4-14 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. (a) There is  
 41 established a board of directors to administer the fund. The board of  
 42 directors of the fund shall consist of five (5) members to be appointed



by the governor, from a list submitted by the ~~secretary of state,~~  
**department,** as follows:

- (1) one (1) provider;
- (2) two (2) residents;
- (3) one (1) individual with expertise in insurance; and
- (4) one (1) individual with expertise in banking and finance.

In addition, the commissioner shall serve as an ex officio member of the board. Directors shall serve such terms as are established in the plan of operation under section 15 of this chapter.

(b) Members of the board of directors are not entitled to compensation for their services. However, each member is entitled to the following:

- (1) Reimbursement for traveling and other expenses incurred as members of the board, as provided in the state travel policies and procedures, established by the Indiana department of administration and approved by the budget agency.
- (2) Reimbursement for expenses related to one (1) meal provided each year in connection with the board's annual meeting.

SECTION 185. IC 23-2-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) An application for registration must contain:

- (1) consent to service of process under subsection (e);
- (2) evidence of the bond required in subsection (b);
- (3) a fee of two hundred fifty dollars (\$250); and
- (4) a statement listing the business address of the loan broker and the business addresses of any affiliated companies.

(b) A loan broker must maintain a bond satisfactory to the commissioner in the amount of twenty-five thousand dollars (\$25,000), which shall be in favor of the state.

(c) Whenever the provisions of this chapter have been complied with, the commissioner shall issue a certificate of registration to the applicant authorizing the applicant to engage in the business of loan brokering.

(d) An application for registration becomes effective on the thirtieth day after it is filed unless an order of the commissioner establishes an earlier effective date. Every registration is effective until January 1 of the second year after it goes into effect.

(e) Every applicant for registration shall file with the commissioner, in such form as the commissioner by rule or order prescribes, an irrevocable consent appointing the ~~secretary of state~~ **attorney general** to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant arising



1 from the violation of any provision of this chapter. Service shall be  
2 made in accordance with the Indiana Rules of Trial Procedure.

3 SECTION 186. IC 23-2-6-34 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 34. (a) The  
5 securities division of the ~~office of the secretary of state~~ **department**  
6 shall administer this chapter.

7 (b) The commissioner and any employees of the commissioner may  
8 not do the following:

9 (1) Use for personal gain or benefit any information that:

10 (A) is filed with the commissioner or obtained by the  
11 commissioner; and

12 (B) is not public information.

13 (2) Conduct securities dealings or commodity dealings based on  
14 public or confidential information that is filed with the  
15 commissioner or obtained by the commissioner if there has not  
16 been a sufficient time for the securities markets or commodity  
17 markets to assimilate the information.

18 (c) Except as provided in subsection (d), all information that is  
19 collected, assembled, or maintained by the commissioner:

20 (1) is public information; and

21 (2) is available for inspection by the public.

22 (d) The following information is not public information and may not  
23 be made available by the commissioner for public inspection:

24 (1) Information obtained in private investigations under section  
25 28(a) or 28(d) of this chapter.

26 (2) Information that:

27 (A) is obtained from a federal agency; and

28 (B) may not be disclosed under federal law.

29 (e) The commissioner shall have the discretion to disclose any  
30 information that is confidential under subsection (d)(1) to a person  
31 described in section 35(a) of this chapter.

32 (f) This chapter does not create or derogate any privilege that exists  
33 at common law, by statute, or otherwise, when any documentary  
34 evidence or other evidence is sought under subpoena directed to the  
35 commissioner or any employee of the commissioner.

36 SECTION 187. IC 23-4-1-2.5 IS ADDED TO THE INDIANA  
37 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
38 [EFFECTIVE JANUARY 1, 2000]: **Sec. 2.5. As used in this article,**  
39 **"department" refers to the department of commerce created by**  
40 **IC 4-3-2-2.**

41 SECTION 188. IC 23-4-1-45 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 45. (a) To qualify

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as a limited liability partnership, a partnership under this chapter must do the following:

(1) File a registration with the ~~secretary of state~~ **department** in a form determined by the ~~secretary of state~~ **that department** satisfies the following:

(A) Is signed by one (1) or more partners authorized to sign the registration.

(B) States the name of the limited liability partnership, which must:

(i) contain the words "Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of the name; and

(ii) be distinguishable upon the records of the ~~secretary of state~~ **department** from the name of a limited liability partnership registered to transact business in Indiana.

(C) States the address of the partnership's principal office.

(D) States the name of the partnership's registered agent and the address of the partnership's registered office for service of process as required to be maintained by section 50 of this chapter.

(E) Contains a brief statement of the business in which the partnership engages.

(F) States any other matters that the partnership determines to include.

(G) States that the filing of the registration is evidence of the partnership's intention to act as a limited liability partnership.

(2) File a ninety dollar (\$90) registration fee with the registration.

(b) The ~~secretary of state~~ **department** shall grant limited liability partnership status to any partnership that submits a completed registration with the required fee.

(c) Registration is effective and a partnership becomes a limited liability partnership on the date a registration is filed with the ~~secretary of state~~ **department** or at any later date or time specified in the registration. The registration remains effective until it is voluntarily withdrawn by filing with the ~~secretary of state~~ **department** a written withdrawal notice under section 45.2 of this chapter.

(d) The status of a partnership as a limited liability partnership and the liability of a partner of a limited liability partnership is not adversely affected by errors or subsequent changes in the information stated in a registration under subsection (a).

(e) A registration on file with the ~~secretary of state~~ **department** is notice that the partnership is a limited liability partnership and is notice



of all other facts set forth in the registration.

SECTION 189. IC 23-4-1-45.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 45.1. (a) As used in this section, "limited liability partnership" refers to a:

- (1) limited liability partnership; or
- (2) foreign limited liability partnership;

as defined in section 2 of this chapter.

(b) The registration of a limited liability partnership may be amended by filing ~~in with the office of the secretary of state~~ **department** a certificate of amendment executed by at least one (1) partner authorized to execute an amendment to the registration.

(c) A certificate of amendment must contain the following:

- (1) The name of the limited liability partnership.
- (2) The date the registration was filed.
- (3) The amendment to the registration.

(d) A certificate of amendment must be accompanied by a thirty dollar (\$30) filing fee.

(e) Subject to subsection (f), the registration of a limited liability partnership may be amended at any time.

(f) An amended registration must contain only provisions that may be lawfully contained in the registration when the amendment is made.

SECTION 190. IC 23-4-1-45.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 45.2. (a) As used in this section, "limited liability partnership" refers to a:

- (1) limited liability partnership; or
- (2) foreign limited liability partnership;

as defined in section 2 of this chapter.

(b) The registration of a limited liability partnership may be withdrawn by filing ~~in with the office of the secretary of state~~ **department** a withdrawal notice executed by at least one (1) partner authorized to execute a withdrawal notice.

(c) A withdrawal notice must contain the following:

- (1) The name of the limited liability partnership.
- (2) The date the registration was filed.
- (3) A brief statement regarding the reason for filing the withdrawal notice.
- (4) Any other information considered appropriate by the limited liability partnership.

(d) A withdrawal notice must be accompanied by a thirty dollar (\$30) filing fee.

(e) The withdrawal notice is effective and the partnership ceases to be a limited liability partnership on the date a withdrawal notice is filed

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1 with the ~~secretary of state~~ **department** or at any later date or time  
2 specified in the notice.

3 SECTION 191. IC 23-4-1-45.3 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 45.3. (a) The  
5 exclusive right to use a name of a limited liability partnership or  
6 foreign limited liability partnership may be reserved by the following:

7 (1) A person intending to organize a limited liability partnership  
8 under this article and to adopt that name.

9 (2) A limited liability partnership or any foreign limited liability  
10 partnership registered in Indiana that, in either case, intends to  
11 change its name to that name.

12 (3) A foreign limited liability partnership intending to register in  
13 Indiana and use that name in Indiana.

14 (4) A person intending to organize a foreign limited liability  
15 partnership and intending to have it registered in Indiana and use  
16 that name in Indiana.

17 (b) An applicant may reserve a specified name by filing with the  
18 ~~secretary of state~~ **department** an application executed by the applicant  
19 specifying the name to be reserved and the name and the address of the  
20 applicant, along with a twenty dollar (\$20) fee. If the ~~secretary of state~~  
21 **department** finds that the name is available for use by the applicant,  
22 the ~~secretary of state~~ **department** shall reserve the name for the  
23 exclusive use of the applicant for a period of one hundred twenty (120)  
24 days. After reserving a name, the same applicant may reserve the same  
25 name for successive periods of one hundred twenty (120) days.

26 (c) The exclusive right to use a reserved name may be transferred  
27 to another person by filing ~~in with~~ the ~~office of the secretary of state~~  
28 **department** a notice of the transfer, executed by the applicant who  
29 reserved the name to be transferred and the name and address of the  
30 transferee.

31 SECTION 192. IC 23-4-1-49 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 49. (1) Before  
33 transacting business in this state, a foreign limited liability partnership  
34 shall do the following:

35 (a) Comply with any statutory or administrative registration or  
36 filing requirements governing the specific type of business in  
37 which the partnership is engaged.

38 (b) File a registration with the ~~secretary of state~~ **department** in a  
39 form determined by the ~~secretary of state~~ **department** that  
40 satisfies the following:

41 (I) Is signed at least by one (1) partner authorized to sign the  
42 registration.

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(II) States the name of the limited liability partnership which must contain the words "Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" or other similar words or abbreviations as may be required or authorized by the laws of the jurisdiction where the partnership is registered as the last words or letters of the name.

(III) States the jurisdiction in which the partnership is registered as a limited liability partnership.

(IV) States the address of the partnership's principal office.

(V) States the name of the partnership's registered agent and the address of the partnership's registered office for service of process as required to be maintained by section 50 of this chapter.

(VI) Contains a brief statement of the business in which the partnership engages.

(VII) States any other matters that the partnership determines to include.

(VIII) States that the filing of the registration is evidence of the partnership's intention to act as a limited liability partnership.

(c) File a ninety dollar (\$90) registration fee with the registration.

(2) The ~~secretary of state~~ **department** shall permit a foreign limited liability partnership that:

(a) submits a completed registration;

(b) submits the required ninety dollars (\$90); and

(c) otherwise complies with this chapter;

to transact business in the state. A registration remains effective until the registration is voluntarily withdrawn under section 45.2 of this chapter.

(3) The internal affairs of foreign limited liability partnerships, including the liability of partners for debts, obligations, and liabilities of or chargeable to the partnership or a partner or partners, are subject to and governed by the laws of the jurisdiction in which the foreign limited liability partnership is registered.

SECTION 193. IC 23-4-1-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 50. (1) A limited liability partnership and a foreign limited liability partnership must continuously maintain in Indiana the following:

(a) A registered office.

(b) A registered agent, who must be one (1) of the following:

(I) An individual who resides in Indiana and whose business office is identical with the registered office.

(II) A domestic limited liability partnership, domestic limited



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1 liability company, domestic corporation, or nonprofit domestic  
2 corporation whose business office is identical with the  
3 registered office.

4 (III) A foreign limited liability partnership, foreign limited  
5 liability company, foreign corporation, or nonprofit foreign  
6 corporation authorized to transact business in Indiana whose  
7 business office is identical with the registered office.

8 (2) A limited liability partnership or a foreign limited liability  
9 partnership may change its registered office or registered agent by  
10 delivering to the ~~secretary of state~~ **department** for filing a statement of  
11 change that sets forth the following:

12 (a) The name of the partnership.

13 (b) The street address of the partnership's current registered  
14 office.

15 (c) If the current registered office is to be changed, the street  
16 address of the new registered office.

17 (d) The name of the partnership's current registered agent.

18 (e) If the current registered agent is to be changed, the name of  
19 the new registered agent and the new registered agent's written  
20 consent or a representation that the new registered agent has  
21 consented either on the statement or attached to the statement to  
22 the appointment.

23 (f) That after the change or changes are made, the street addresses  
24 of its registered office and the business office of its registered  
25 agent will be identical.

26 (3) If a registered agent changes the street address of the registered  
27 agent's business office, the registered agent may change the street  
28 address of the registered office of any limited liability partnership or  
29 foreign limited liability partnership that the registered agent serves by  
30 notifying the partnership in writing of the change and signing either  
31 manually or in facsimile and delivering to the ~~secretary of state~~ **department**  
32 **department** for filing a statement that complies with the requirements  
33 of paragraph (2) and states that the partnership has been notified of the  
34 change.

35 SECTION 194. IC 23-4-1-51 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 51. (1) A  
37 registered agent may resign the agency appointment by signing and  
38 delivering to the ~~secretary of state~~ **the department** for filing the signed  
39 original and two (2) exact or conformed copies of a statement of  
40 resignation. The statement may include a statement that the registered  
41 office is also discontinued.

42 (2) After filing the statement, the ~~secretary of state~~ **department**

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1 shall mail one (1) copy to the limited liability partnership or foreign  
2 limited liability partnership at the partnership's principal office and the  
3 other copy to the registered office, if the registered office has not been  
4 discontinued.

5 (3) The agency appointment is terminated and the registered office  
6 discontinued, if discontinued under the statement, thirty-one (31) days  
7 after the statement was filed.

8 (4) A limited liability partnership or foreign limited liability  
9 partnership notified under paragraph (2) shall notify the ~~secretary of~~  
10 ~~state department~~ of a new registered agent and provide a new  
11 registered office not later than the end of the thirty-first day under  
12 paragraph (3).

13 SECTION 195. IC 23-5-1-4 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) Any  
15 business trust, whether domestic or foreign, desiring to transact  
16 business in this state, shall file the following documents and  
17 information ~~in with the office of the secretary of state, department,~~ on  
18 such forms, if any, as such secretary may prescribe:

19 (1) An executed copy of the trust instrument by which the trust  
20 was created and of all amendments thereto or a true and correct  
21 copy thereof certified to be such by a trustee thereof before an  
22 official authorized to administer oaths or by a public official of  
23 another state, territory, or country in whose office an executed  
24 copy thereof is on file.

25 (2) A verified list of the names and addresses of its trustees.

26 (3) A balance sheet, certified by an independent certified or  
27 public accountant or firm of accountants as of the date no earlier  
28 than sixty (60) days prior to such date of filing, fairly and truly  
29 reflecting its assets and liabilities and specifically setting out its  
30 corpus and showing a net worth of not less than one thousand  
31 dollars (\$1,000). A foreign business trust shall also file a  
32 statement showing the same information required of a foreign  
33 corporation under IC 23-1.

34 (4) The location of its registered office in this state and the name  
35 of its resident agent in charge of such registered office.

36 (b) A foreign business trust shall comply with and be subject to all  
37 the provisions of IC 23-1 as though it were a foreign corporation.  
38 Before commencement of business in Indiana every trust, domestic or  
39 foreign, shall record in the office of the county recorder of the county  
40 in which the principal office of said business trust in this state is  
41 located a copy of the trust instrument duly bearing the file mark of the  
42 ~~secretary of state, department.~~



1 SECTION 196. IC 23-5-1-5 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5.  
 3 Contemporaneously with the filing ~~in with the office of the secretary~~  
 4 ~~of state department~~ of the instruments required by section 4 of this  
 5 chapter, domestic and foreign business trusts shall pay to the ~~secretary~~  
 6 ~~of state department~~ an application fee of twenty dollars (\$20).

7 SECTION 197. IC 23-5-1-6 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. No business  
 9 trust shall transact any business in this state, except such as may be  
 10 incident to its organization, until it has fully complied with sections 4  
 11 and 5 of this chapter, and in event of any violation of this section, all  
 12 trustees of such business trust, except those who filed their written  
 13 dissent ~~in with the office of the secretary of state department~~ before  
 14 such business was transacted, shall be jointly and severally liable for  
 15 all debts and obligations of the business trust arising from the business  
 16 so transacted in this state prior to compliance with sections 4 and 5 of  
 17 this chapter.

18 SECTION 198. IC 23-5-1-7 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. The trust  
 20 instrument by which any business trust was created may be amended  
 21 in the manner specified therein or in such manner as is valid under the  
 22 common or statutory law applicable to such business trust; provided,  
 23 that no such amendment adopted subsequent to the preliminary filings  
 24 required by section 4 of this chapter shall be legally effective in this  
 25 state until an executed copy thereof has been filed ~~in with the office of~~  
 26 ~~the secretary of state department~~ accompanied by a fee of thirteen  
 27 dollars (\$13) and a file-marked copy thereof recorded in the office of  
 28 the county recorder of the county in which the principal office of said  
 29 business trust in this state is located.

30 SECTION 199. IC 23-5-1-9.1 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9.1. (a) A  
 32 business trust, by resolution of the trustees, may adopt a provision of  
 33 law related to domestic and foreign corporations not listed under  
 34 section 9 of this chapter.

35 (b) If a business trust adopts a provision of law under subsection (a),  
 36 the business trust shall:

- 37 (1) file notice of the adoption ~~in with the office of the secretary of~~  
 38 ~~state; department; and~~
- 39 (2) record notice of the adoption in the office of the county  
 40 recorder of the county in which the principal office of the  
 41 business trust is located.

42 SECTION 200. IC 23-5-1-10.1 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10.1. (a) As used  
2 in this section, "trust" means a:

- 3 (1) domestic business trust; or
- 4 (2) foreign business trust;

5 as defined in section 2 of this chapter.

6 (b) Each trust authorized to transact business in Indiana shall deliver  
7 a biennial report to the ~~secretary of state~~ **department** for filing that sets  
8 forth the following:

- 9 (1) The name of the trust and the state or country under whose  
10 law the trust is created.
- 11 (2) The address of the trust's registered office and the name of its  
12 registered agent at that office in Indiana.
- 13 (3) The address of the trust's principal office.

14 (c) When a biennial report is filed, it must be accompanied by the  
15 following:

- 16 (1) A verified list of the names and addresses of the trustees of the  
17 business trust.
- 18 (2) Executed copies of all amendments to:
  - 19 (A) the original trust instrument; and
  - 20 (B) amendments to the trust instrument that:
    - 21 (i) were adopted not later than December 31 of the
    - 22 preceding year; and
    - 23 (ii) have not been filed under section 7 of this chapter.

- 24 (3) A fee of fifteen dollars (\$15) per year to be paid biennially.

25 (d) Information in the biennial report must be current as of the date  
26 the biennial report is executed on behalf of the trust.

27 (e) The first biennial report must be delivered to the ~~secretary of~~  
28 **state department** in the second year following the calendar year in  
29 which a domestic business trust was created or a foreign business trust  
30 was authorized to transact business. The biennial report is due during  
31 the same month as the month in which the trust was created or  
32 authorized to transact business.

33 (f) Subsequent biennial reports must be delivered to the ~~secretary of~~  
34 **state department** every second year following the year in which the  
35 last biennial report was filed. The ~~secretary of state~~ **department** may  
36 accept reports during the two (2) months before the month that they are  
37 due.

38 (g) If a biennial report does not contain the information required by  
39 this section, the ~~secretary of state~~ **department** shall promptly notify the  
40 reporting trust in writing and return the report to it for correction. If the  
41 report is corrected to contain the information required by this section  
42 and delivered to the ~~secretary of state~~ **department** within thirty (30)



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days after the effective date of notice, it is considered to be timely filed.

SECTION 201. IC 23-5-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 11. (a) Any business trust, domestic or foreign, which has obtained authority under this chapter to transact business in Indiana may surrender its said authority at any time by:

(1) filing ~~in with the office of the secretary of state~~ **department** a file-marked copy of a resolution duly adopted by its trustees declaring its intention to withdraw, accompanied by a withdrawal fee of thirteen dollars (\$13);

(2) recording a copy thereof in the office of the county recorder of the county in which the principal office of said business trust in this state is located; and

(3) filing all annual reports and paying all annual fees required ~~by section 10 of this chapter~~ and not theretofore filed and paid.

(b) During a period of five (5) years following the effective date of such withdrawal, the business trust shall nevertheless be entitled to convey and dispose of its property and assets in this state, settle and close out its business in this state, and perform any other act or acts pertinent to the liquidation of its business, property, and assets in this state, and to prosecute and defend all suits filed prior to the expiration of said five (5) year period involving causes of action prior to the effective date of such withdrawal or arising out of any action or transactions occurring during said five (5) year period in the course of the liquidation of its business, property, or assets. The withdrawal of a business trust as provided in this section shall have no effect upon any suit filed by or against it prior to the expiration of said five (5) year period until such suit has been finally determined or otherwise finally concluded and all judgments, orders, and decrees entered therein have been fully executed, even though such final determination, conclusion, or execution occurs after the expiration of said five (5) year period.

(c) With respect to a foreign business trust, withdrawal under this section shall not affect its written consent to be sued in the courts of this state, or the jurisdiction over public foreign business trusts of the courts of this state, with respect to any cause of action which arose prior to the effective date of its withdrawal.

SECTION 202. IC 23-5-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 2.5. As used in this chapter, "department" refers to the department of commerce created by IC 4-3-2-2.**

SECTION 203. IC 23-6-4-1 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. As used in this  
 2 chapter, "credit corporation" means a corporation to which the  
 3 ~~secretary of state~~ **department** has issued a certificate of election under  
 4 section 8 of this chapter.

5 SECTION 204. IC 23-6-4-1.5 IS ADDED TO THE INDIANA  
 6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 7 [EFFECTIVE JANUARY 1, 2000]: **Sec. 1.5. As used in this chapter,**  
 8 **"department" refers to the department of commerce created by**  
 9 **IC 4-3-2-2.**

10 SECTION 205. IC 23-6-4-8 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) Any  
 12 corporation organized before January 1, 1985, under IC 23-1 (the  
 13 Indiana General Corporation Act) may elect to accept this chapter, and  
 14 avail itself of the rights, privileges, immunities, and franchises  
 15 provided by this chapter, by filing **in with the office of the secretary of**  
 16 **state** ~~department~~ the election described in subsection (b), together  
 17 with amended articles of incorporation allowing it to operate under this  
 18 chapter.

19 (b) The board of directors of a corporation desiring to accept this  
 20 chapter shall, by a resolution adopted by a majority vote of the board,  
 21 approve a written election setting forth:

- 22 (1) the name of the corporation;
- 23 (2) the location of its principal office;
- 24 (3) the name and post office address of its resident agent;
- 25 (4) the date of its incorporation; and
- 26 (5) a declaration that it accepts all of the terms and provisions of  
 27 this chapter.

28 (c) The resolution of the board of directors electing to accept this  
 29 chapter and the corporation's amended articles of incorporation shall  
 30 be submitted to a vote of the shareholders of the corporation entitled to  
 31 vote on those proposals at a designated meeting called for that purpose.  
 32 The affirmative votes of the holders of at least two-thirds (2/3) of the  
 33 outstanding voting shares of the corporation are required for adoption  
 34 of the election and the amended articles of incorporation. If the election  
 35 and the amended articles of incorporation are adopted, they shall be  
 36 signed in duplicate by a current officer of the corporation, verified and  
 37 affirmed subject to penalties for perjury, and presented in duplicate to  
 38 the ~~secretary of state at the secretary of state's office:~~ **department.**

39 (d) Upon the presentation of an election and amended articles of  
 40 incorporation adopted under this section, the ~~secretary of state~~  
 41 **department** shall endorse an approval upon both of the duplicate  
 42 copies of each document, if the ~~secretary~~ **department** determines that

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they conform to law. If all fees have been paid as required by law, the ~~secretary~~ **department** shall also:

(1) file one (1) copy of each document ~~in with the secretary's office;~~ **department;**

(2) issue a certificate of election to the corporation; and

(3) return the remaining copies bearing the endorsement of the ~~secretary's~~ **department's** approval to the corporation.

(e) Upon the issuance of a certificate of election to a corporation by the ~~secretary of state~~ **department** under subsection (d):

(1) the election becomes effective;

(2) the corporation is entitled to all of the rights, privileges, immunities, powers, and franchises, and is subject to all of the penalties, liabilities, and restrictions granted to or imposed upon credit corporations organized by this chapter; and

(3) the amendments to the corporation's articles of incorporation become effective.

SECTION 206. IC 23-6-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. (a) Subject to subsection (b), a credit corporation's articles of incorporation may be amended by the members and shareholders of the corporation. The members and shareholders shall vote on proposed amendments in the manner prescribed by section 15 of this chapter. However, the affirmative vote of at least two-thirds (2/3) of the votes to which each class is entitled is required for adoption of an amendment.

(b) An amendment to the articles of incorporation that is inconsistent with the general purposes expressed in this chapter or that authorizes any additional class of capital stock to be issued may not be adopted. In addition, an amendment of the articles of incorporation that:

(1) increases the obligation of a member to make loans to the credit corporation;

(2) makes any change in the principal amount, interest rate, maturity date, or security or credit position of any outstanding loan of a member to the credit corporation; or

(3) affects a member's voting rights;

may not be made without the consent of each member affected by the amendment.

(c) An amendment to the articles of incorporation of a credit corporation shall be filed with the ~~secretary of state.~~ **department.** The amendment takes effect on the date of that filing.

SECTION 207. IC 23-7-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) The



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1 division may receive, investigate, and prosecute complaints concerning  
 2 the activities of professional fundraiser consultants and professional  
 3 solicitors who:

- 4 (1) may be subject to this chapter; or
- 5 (2) have or may have violated this chapter.

6 All complaints must be in writing, signed by the complainant, and filed  
 7 with the division.

8 (b) The attorney general may subpoena witnesses, send for and  
 9 compel the production of books, records, papers, and documents of  
 10 professional fundraiser consultants and professional solicitors who are  
 11 subject to registration under this chapter, for the furtherance of any  
 12 investigation under this chapter. The circuit or superior court located  
 13 in the county where the subpoena is to be issued shall enforce any such  
 14 subpoena by the attorney general.

15 (c) The attorney general may bring an action to enjoin a violation of  
 16 this chapter. In this action, the court may order a person who has  
 17 violated this chapter to pay the reasonable costs of investigation and  
 18 prosecution incurred by the attorney general, may award the state civil  
 19 penalties up to five hundred dollars (\$500) for each violation, and may  
 20 order the professional fundraiser consultant or professional solicitor to  
 21 repay money unlawfully received from aggrieved solicitees. In ordering  
 22 injunctive relief, the division is not required to establish irreparable  
 23 harm but only a violation of a statute or that the requested order  
 24 promotes the public interest. It is an affirmative defense to the  
 25 assessment of civil penalties under this subsection that the defendant  
 26 acted pursuant to a good faith misunderstanding concerning the  
 27 requirements of this chapter.

28 (d) A person who knowingly or intentionally:

- 29 (1) fails to file a registration statement or other information;
- 30 (2) files a statement or other information which is materially false;
- 31 or
- 32 (3) fails to make a disclosure;

33 as required by this chapter commits a Class B misdemeanor. However,  
 34 the offense is a Class A misdemeanor if the person has a previous  
 35 unrelated conviction under this subsection.

36 (e) A local unit of government may adopt an ordinance which  
 37 regulates professional fundraisers and solicitors if the ordinance does  
 38 not conflict with this chapter.

39 (f) A professional fundraiser consultant, or a professional solicitor,  
 40 who has the person's principal place of business outside of Indiana, or  
 41 who has organized under the laws of another state, and who solicits  
 42 contributions from persons in Indiana, is subject to this chapter and



1 shall be considered to have appointed the ~~secretary of state~~ **attorney**  
 2 **general** as his agent. All service of process under this subsection shall  
 3 be made on the ~~secretary of state~~ **attorney general** under Rule 4.10 of  
 4 the Indiana Rules of Trial Procedure.

5 SECTION 208. IC 23-14-76-4 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) Before  
 7 January 1, 1998, a cemetery association may elect to have the  
 8 provisions of IC 23-1 or IC 23-17 apply permanently to the cemetery  
 9 association, irrespective of whether the cemetery association has issued  
 10 shares of stock.

11 (b) A cemetery association electing to have IC 23-1 apply to the  
 12 cemetery association may:

- 13 (1) incorporate or reincorporate under IC 23-1; or
- 14 (2) if the cemetery association is a corporation, comply with the  
 15 following procedures:

16 (A) The board of directors or trustees must adopt a resolution  
 17 electing to have the provisions of IC 23-1 apply to the  
 18 cemetery association.

19 (B) The resolution must specify a date (before January 1,  
 20 1998) after which the provisions of IC 23-1 will apply to the  
 21 cemetery association.

22 (C) The resolution must be filed with the ~~secretary of state~~  
 23 **department of commerce** before the date specified under  
 24 clause (B).

25 (c) A cemetery association electing to have IC 23-17 apply to the  
 26 cemetery association may:

- 27 (1) incorporate or reincorporate under IC 23-17; or
- 28 (2) if the cemetery association is a corporation, accept the  
 29 provisions of IC 23-17 by taking the actions set forth in  
 30 IC 23-17-1-1.

31 SECTION 209. IC 23-15-1-1 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) Except as  
 33 otherwise provided in section 2 of this chapter:

34 (1) a person conducting or transacting business in Indiana under  
 35 a name, designation, or title other than the real name of the person  
 36 conducting or transacting such business;

37 (2) a corporation conducting business in Indiana under a name,  
 38 designation, or title other than the name of the corporation as  
 39 shown by its articles of incorporation;

40 (3) a foreign corporation conducting business in Indiana under a  
 41 name, designation, or title other than the name of the foreign  
 42 corporation as shown by its application for certificate of authority

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1 to transact business in Indiana;

2 (4) a limited partnership conducting business in Indiana under a  
3 name, designation, or title other than the name of the limited  
4 partnership as shown by its certificate of limited partnership;

5 (5) a foreign limited partnership conducting business in Indiana  
6 under a name, designation, or title other than the name of the  
7 limited partnership as shown by its application for registration;

8 (6) a limited liability company conducting business in Indiana  
9 under a name, designation, or title other than as shown by its  
10 articles of organization;

11 (7) a foreign limited liability company conducting business in  
12 Indiana under a name, designation, or title other than the name of  
13 the limited liability company as shown by its application for  
14 registration;

15 (8) a limited liability partnership conducting business in Indiana  
16 under a name, designation, or title other than the name of the  
17 limited liability partnership as shown by its application for  
18 registration; and

19 (9) a foreign limited liability partnership conducting business in  
20 Indiana under a name, designation, or title other than the name of  
21 the limited liability partnership as shown by its application for  
22 registration;

23 shall file for record, in the office of the recorder of each county in  
24 which a place of business or an office of the person, limited  
25 partnership, foreign limited partnership, limited liability company,  
26 foreign limited liability company, corporation, or foreign corporation  
27 is situated, a certificate stating the assumed name to be used, and, in  
28 the case of a person, the full name and address of the person engaged  
29 in or transacting business, or, in the case of a corporation, foreign  
30 corporation, limited liability company, foreign limited liability  
31 company, limited partnership, or foreign limited partnership, the full  
32 name and the address of the corporation's, limited liability company's,  
33 or limited partnership's principal office in Indiana.

34 (b) The recorder shall keep a record of the certificates filed under  
35 this section and shall keep an index of the certificates showing, in  
36 alphabetical order, the names of the persons, the names of the  
37 partnerships, the names of the limited liability companies, the corporate  
38 names of the corporations having such certificates on file in the  
39 recorder's office, and the assumed names which they intend to use in  
40 carrying on their businesses as shown by the certificates.

41 (c) Before the dissolution of any business for which a certificate is  
42 on file with the recorder, the person, limited liability company,

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1 partnership, or corporation to which the certificate appertains shall file  
2 a notice of dissolution for record in the recorder's office.

3 (d) The county recorder shall charge a fee in accordance with  
4 IC 36-2-7-10 for each certificate, notice of dissolution, and notice of  
5 discontinuance of use filed with the recorder's office and recorded  
6 under this chapter. The funds received shall be receipted as county  
7 funds the same as other money received by the recorders.

8 (e) A corporation, limited liability company, or limited partnership  
9 subject to this chapter shall, in addition to filing the certificate provided  
10 for in subsection (a), file with the ~~secretary of state~~ **department of**  
11 **commerce** a copy of each certificate.

12 (f) A person, partnership, limited liability company, or corporation  
13 that has filed a certificate of assumed business name under subsection  
14 (a) or (e) may file a notice of discontinuance of use of assumed  
15 business name with the ~~secretary of state~~ **department of commerce**  
16 and with the recorder's office in which the certificate was filed or  
17 transferred. The ~~secretary of state~~ **department of commerce** and the  
18 recorder shall keep a record of notices filed under this subsection.

19 (g) A corporation or limited partnership, domestic or foreign, that  
20 is subject to this chapter and that does not have a place of business or  
21 an office in Indiana, shall file the certificate required under subsection  
22 (a) in the office of the recorder of the county where the corporation's or  
23 limited partnership's registered office is located. The certificate must  
24 state the assumed name to be used, the name of the registered agent,  
25 and the address of the registered office. The corporation or limited  
26 partnership must comply with the requirements in subsection (e).

27 (h) The ~~secretary of state~~ **department of commerce** shall collect the  
28 following fees when a copy of a certificate is filed with the ~~secretary of~~  
29 **state department of commerce** under subsection (e):

30 (1) A fee of thirty dollars (\$30) from a corporation (other than a  
31 nonprofit corporation), limited liability company, or a limited  
32 partnership.

33 (2) A fee of twenty-six dollars (\$26) from a nonprofit corporation.

34 SECTION 210. IC 23-15-6-1 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. This chapter  
36 applies to a corporation organized in Indiana, or doing business in  
37 Indiana, regardless of the law under which it was incorporated or  
38 admitted to do business in Indiana and whether or not it is required to  
39 file an annual or biennial report with any other governmental agency,  
40 if the corporation is not required to file an annual or biennial report  
41 with the ~~secretary of state~~ **department of commerce** under other  
42 provisions of this title.



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1 SECTION 211. IC 23-15-6-2 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. A corporation  
 3 subject to this chapter shall deliver to the ~~secretary of state~~ **department**  
 4 **of commerce** for filing:

5 (1) an annual report; or

6 (2) a biennial report, if the corporation is a domestic corporation  
 7 organized for profit;

8 that contains the information required by IC 23-1-53-3.

9 SECTION 212. IC 23-15-6-4 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. If an annual or  
 11 a biennial report does not contain the information required by this  
 12 chapter, the ~~secretary of state~~ **department of commerce** shall promptly  
 13 notify the reporting corporation in writing and return the report to it for  
 14 correction. If the report is corrected to contain the information required  
 15 by this section and delivered to the ~~secretary of state~~ **department of**  
 16 **commerce** within thirty (30) days after the effective date of notice, it  
 17 is deemed to be timely filed.

18 SECTION 213. IC 23-15-6-5 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) The  
 20 ~~secretary of state~~ **department of commerce** may commence a  
 21 proceeding under this section to administratively dissolve a corporation  
 22 incorporated under Indiana law if the corporation does not deliver its  
 23 annual or biennial report to the ~~secretary of state~~ **department** within  
 24 sixty (60) days after it is due.

25 (b) The procedure for administrative dissolution under this section  
 26 is the same as that set forth in IC 23-1-46-2.

27 (c) The procedure for reinstatement after an administrative  
 28 dissolution under this section is the same as that set forth in  
 29 IC 23-1-46-3.

30 (d) The procedures for denial and appeal of a denial of  
 31 reinstatement under this section are the same as those set forth in  
 32 IC 23-1-46-4.

33 SECTION 214. IC 23-15-6-6 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) The  
 35 ~~secretary of state~~ **department of commerce** may commence a  
 36 proceeding under this section to revoke the certificate of authority of  
 37 a corporation admitted to do business in Indiana if the corporation does  
 38 not deliver its annual report to the ~~secretary of state~~ **department** within  
 39 (60) days after it is due.

40 (b) The procedure for revocation of a certificate of authority under  
 41 this section is the same as that set forth in IC 23-1-51-2.

42 (c) The procedure for appeal of a revocation under this section is the



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1 same as that set forth in IC 23-1-51-3.

2 SECTION 215. IC 23-16-1-3.5 IS ADDED TO THE INDIANA  
3 CODE AS A NEW SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JANUARY 1, 2000]: **Sec. 3.5. "Department" refers to**  
5 **the department of commerce created by IC 4-3-2-2.**

6 SECTION 216. IC 23-16-1-4 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. "Effective date"  
8 means a date specified in a certificate filed with the ~~secretary of state~~  
9 **department** declaring when the certificate becomes effective.

10 SECTION 217. IC 23-16-2-1 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) The name  
12 of each limited partnership as set forth in its certificate of limited  
13 partnership:

14 (1) must contain the words "limited partnership" or the  
15 abbreviation "L.P.";

16 (2) may not contain the name of a limited partner unless:

17 (A) it is also the name of a general partner or the corporate  
18 name of a corporate general partner; or

19 (B) the business of the limited partnership had been carried on  
20 under that name before the admission of that limited partner;

21 (3) may not contain any word or phrase indicating or implying  
22 that it is organized other than for a purpose stated in its  
23 partnership agreement; and

24 (4) except as provided in subsection (b), must be such as to  
25 distinguish it upon the **department's** records ~~in the office of the~~  
26 ~~secretary of state~~ from the name of any limited partnership  
27 reserved, registered, or organized under the laws of Indiana or  
28 qualified to do business or registered as a foreign limited  
29 partnership in Indiana.

30 (b) A limited partnership may apply to the ~~secretary of state~~  
31 **department** to use a name that is not distinguishable upon the  
32 ~~secretary of state's~~ **department's** records from one (1) or more of the  
33 names described in subsection (a). The ~~secretary of state~~ **department**  
34 shall authorize use of the name applied for if:

35 (1) the other domestic or foreign limited partnership files its  
36 written consent to the use of its name, signed by any current  
37 general partner of the other limited partnership and verified  
38 subject to the penalties for perjury; or

39 (2) the applicant delivers to the ~~secretary of state~~ **department** a  
40 certified copy of a final court judgment establishing the  
41 applicant's right to use the name applied for in Indiana.

42 SECTION 218. IC 23-16-2-2 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) The  
2 exclusive right to the use of a name may be reserved by:

3 (1) any person intending to organize a limited partnership under  
4 this article and to adopt that name;

5 (2) any domestic limited partnership or any foreign limited  
6 partnership registered in Indiana intending to adopt that name;

7 (3) any foreign limited partnership intending to register in Indiana  
8 and adopt that name; and

9 (4) any person intending to organize a foreign limited partnership  
10 and intending to have it registered in Indiana and adopt that name.

11 (b) The reservation of a specified name shall be made by filing with  
12 the ~~secretary of state~~ **department** an application, executed by the  
13 applicant, specifying the name to be reserved and the name and address  
14 of the applicant. If the ~~secretary of state~~ **department** finds that the  
15 name is available for use by a domestic or foreign limited partnership,  
16 the ~~secretary of state~~ **department** shall reserve the name for the  
17 exclusive use of the applicant for a period of one hundred twenty (120)  
18 days. Once having so reserved a name, the same applicant may again  
19 reserve the same name for successive periods of one hundred twenty  
20 (120) days. The right to the exclusive use of a reserved name may be  
21 transferred to any other person by filing ~~in with the office of the~~  
22 ~~secretary of state~~ **department** a notice of the transfer, executed by the  
23 applicant for whom the name was reserved, and specifying the name to  
24 be transferred and the name and address of the transferee.

25 SECTION 219. IC 23-16-2-3 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) Each  
27 limited partnership shall have and continuously maintain:

28 (1) an office at an address set forth in the certificate of limited  
29 partnership that:

30 (A) may be (but need not be) a place of its business in Indiana;  
31 and

32 (B) must be the repository for the records required to be  
33 maintained by section 6 of this chapter; and

34 (2) a registered agent whose business address is in Indiana, for  
35 service of process on the limited partnership, which agent must  
36 be:

37 (A) an individual resident of Indiana; or

38 (B) a domestic corporation or a foreign corporation authorized  
39 to do business in Indiana.

40 (b) A limited partnership may change its registered agent by  
41 delivering to the ~~secretary of state~~ **department** for filing a statement  
42 containing the following:

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(1) The name of the limited partnership.

(2) The name of its current registered agent.

(3) The name and business address of the new registered agent and the new agent's consent to the appointment (either on the statement or attached to it).

(c) If a registered agent changes the address of the registered agent's business office, the registered agent must notify the limited partnership in writing of the change, and sign and deliver to the ~~secretary of state~~ **department** for filing a statement that complies with the requirements of subsection (b) and recites that the limited partnership has been notified of the change.

SECTION 220. IC 23-16-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) A registered agent may resign the agency appointment by signing and delivering to the ~~secretary of state~~ **department** for filing the signed original and two (2) exact or conformed copies of a statement of resignation.

(b) After filing the statement, the ~~secretary of state~~ **department** shall mail one (1) copy to the limited partnership at the office referred to in section 3(a)(1) of this chapter.

(c) The agency appointment is terminated on the thirty-first day after the date on which the statement was filed.

SECTION 221. IC 23-16-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) To form a limited partnership, a certificate of limited partnership must be executed and filed ~~in with the office of the secretary of state~~ **department**. The certificate must include the following:

(1) The name of the limited partnership.

(2) The address of the office and the name and address of the agent for service of process required to be maintained by IC 23-16-2-3.

(3) The name and the business address of each general partner.

(4) The latest date upon which the limited partnership is to dissolve.

(5) Any other matters the general partners agree to include.

(b) A limited partnership is formed at the time of the filing of the initial certificate of limited partnership ~~in with the office of the secretary of state~~ **department** or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section. Unless the certificate specifies an effective date that is different from the filing date, the time and date of the filing of the certificate is conclusive evidence as to when a limited partnership is formed.

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1 SECTION 222. IC 23-16-3-3 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A certificate  
 3 of limited partnership is amended by filing a certificate of amendment  
 4 ~~in with the office of the secretary of state.~~ **department.** The certificate  
 5 of amendment must include the following:

6 (1) The name of the limited partnership.

7 (2) The amendment to the certificate of limited partnership.

8 (b) Within sixty (60) days after any of the following events occurs,  
 9 an amendment to a certificate of limited partnership reflecting the  
 10 occurrence of the event or events must be filed:

11 (1) The admission of a new general partner.

12 (2) The withdrawal of a general partner.

13 (3) The continuation of the business under IC 23-16-9-1 after an  
 14 event of withdrawal of a general partner.

15 (4) The discovery by a general partner that any statement in the  
 16 certificate of limited partnership was false when made.

17 (5) The discovery by a general partner that any facts or  
 18 arrangements described in the certificate of limited partnership  
 19 have changed, making the certificate inaccurate in any respect.

20 (c) The filing of an amendment reflecting the occurrence of an event  
 21 referred to in subsection (b) within the time required under subsection  
 22 (b) absolves a person from any liability that might arise because the  
 23 certificate did not reflect the occurrence of that event before the filing  
 24 of the amendment.

25 (d) A certificate of limited partnership may be amended at any time  
 26 for any other proper purpose the general partners may determine.

27 SECTION 223. IC 23-16-3-4 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. A certificate of  
 29 limited partnership shall be cancelled by filing a certificate of  
 30 cancellation upon the dissolution and the commencement of winding  
 31 up of the partnership or at any other time there are no limited partners.  
 32 A certificate of cancellation shall be filed ~~in with the office of the~~  
 33 ~~secretary of state~~ **department** and must include the following:

34 (1) The name of the limited partnership.

35 (2) The date of filing of its certificate of limited partnership.

36 (3) The reason for filing the certificate of cancellation.

37 (4) The effective date or time (which must be a date or time  
 38 certain) of cancellation if it is not to be effective upon the filing  
 39 of the certificate.

40 (5) Any other information the person filing the certificate of  
 41 cancellation determines.

42 SECTION 224. IC 23-16-3-5 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) Each  
 2 certificate required or permitted to be filed ~~in with~~ the ~~office of the~~  
 3 ~~secretary of state department~~ under this article shall be executed in the  
 4 following manner:

5 (1) An initial certificate of limited partnership must be signed by  
 6 all general partners.

7 (2) A certificate of amendment or restatement must be signed by  
 8 at least one (1) general partner and by each other general partner  
 9 designated in the certificate as a new general partner; however, if  
 10 there are no general partners a certificate of amendment or  
 11 restatement must be signed by each new general partner as  
 12 designated in the certificate.

13 (3) A certificate of cancellation must be signed by all general  
 14 partners; however, if there is no general partner, a certificate of  
 15 cancellation must be signed by a majority in interest of the limited  
 16 partners.

17 (b) Any person may sign a certificate, a partnership agreement, or  
 18 an amendment to a certificate or partnership agreement by an  
 19 attorney-in-fact. Powers of attorney relating to the signing of a  
 20 certificate, a partnership agreement, or an amendment to a certificate  
 21 or partnership agreement by an attorney-in-fact need not be sworn to,  
 22 verified, or acknowledged, and need not be filed with the ~~secretary of~~  
 23 ~~state; department~~, but must be retained among the records of the  
 24 partnership. A power of attorney may be included in the partnership  
 25 agreement, and need not be a separate document.

26 (c) The execution of a certificate by any person constitutes an oath  
 27 or affirmation under the penalties of perjury that to the best of the  
 28 person's knowledge and belief the statements made in the certificate are  
 29 true.

30 SECTION 225. IC 23-16-3-6 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. If a person  
 32 required to execute any certificate under section 5 of this chapter fails  
 33 or refuses to do so, any other person who is adversely affected by the  
 34 failure or refusal may petition the circuit or superior court of the county  
 35 in which the office described in IC 23-16-2-3 is located to direct the  
 36 execution of the certificate. If the office referred to in IC 23-16-2-3 is  
 37 not within Indiana, the petition may be made to the circuit or superior  
 38 court of the county in which the business address of the registered  
 39 agent referred to in IC 23-16-2-3 is located. If the court finds that it is  
 40 proper for the certificate to be executed and that any person so  
 41 designated has failed or refused to execute the certificate, it shall order  
 42 the ~~secretary of state department~~ to file a certificate in form and

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substance as directed by the court.

SECTION 226. IC 23-16-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) The original signed copy (together with a duplicate copy, which may be either a signed or conformed copy) of the certificate of limited partnership, of any certificates of amendment or cancellation (or of any judicial decree of amendment or cancellation), and of any restated certificate shall be delivered to the ~~secretary of state~~ **department**. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of the person's authority as a prerequisite to filing. Unless the ~~secretary of state~~ **department** finds that a certificate does not conform to law, upon receipt of all filing fees required by law, the ~~secretary of state~~ **department** shall:

- (1) endorse on the original and each copy the word "filed" and the date and time of the filing;
- (2) file the original certificate; and
- (3) return the copy to the person who filed it or to that person's representative.

(b) In the absence of fraud an endorsement by the ~~secretary of state~~ **department** under subsection (a) is conclusive evidence of the date and time of the filing of the certificate.

(c) Upon the filing of a certificate of amendment (or judicial decree of amendment) or a restated certificate ~~in with the office of the secretary of state~~ **department**, or upon the effective date or time provided for in a certificate of amendment (or judicial decree of amendment) or a restated certificate, the certificate of limited partnership is amended or restated as set forth in the certificate of amendment or restated certificate. Upon the filing of a certificate of cancellation (or a judicial decree of cancellation), or upon the effective date or time of a certificate of cancellation (or a judicial decree thereof), the certificate of limited partnership is cancelled.

SECTION 227. IC 23-16-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. The fact that a certificate of limited partnership is on file ~~in with the office of the secretary of state~~ **department** is notice that the partnership is a limited partnership and is notice of all other facts that are required to be set forth in a certificate of limited partnership under section 2 of this chapter and that are set forth in the certificate.

SECTION 228. IC 23-16-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. Upon the return by the ~~secretary of state~~ **department** of a certificate marked "Filed" under section 7 of this chapter, the general partners shall

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promptly deliver or mail a copy of the certificate to each limited partner, unless the partnership agreement provides otherwise.

SECTION 229. IC 23-16-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 11. (a) Whenever it so desires, a limited partnership may integrate into a single instrument all of the provisions of its certificate of limited partnership that are in effect and operative as a result of the previous filing with the ~~secretary of state~~ **department** of one (1) or more certificates or other instruments under this article by filing a restated certificate of limited partnership specifically designated as a "Restated Certificate of Partnership", and stating in its heading or in a separate paragraph that there is no discrepancy between the provisions of the original certificate of limited partnership with its amendments and the restated certificate. If the restated certificate restates and integrates and also further amends in any respect the certificate of limited partnership, as previously amended or supplemented, it must bear a heading with the words "Amended and Restated Certificate of Limited Partnership" together with such other words as the partnership considers appropriate, it must be executed by at least one (1) general partner and by each other general partner designated in the amended and restated certificate of limited partnership as a new general partner, and it must be filed under section 7 of this chapter ~~in with the office of the secretary of state.~~ **department.**

(b) A restated or amended and restated certificate of limited partnership must state, either in its heading or in an introductory paragraph, the limited partnership's present name (and, if it has been changed, the name under which the limited partnership was originally filed), the date of filing of the original certificate of limited partnership with the ~~secretary of state,~~ **department** and the effective date or time (which must be a date or time certain) of the restated or amended and restated certificate, if it is not to be effective upon the filing of the restated or amended and restated certificate. A restated or amended and restated certificate must also state that it was duly executed and is being filed in accordance with this section.

(c) Upon the filing of the restated certificate of limited partnership with the ~~secretary of state,~~ **department**, or upon the effective date or time provided for in the restated certificate of limited partnership, the initial certificate of limited partnership, as previously amended or supplemented, is superseded. After that filing, the restated certificate of limited partnership, including any further amendment or changes made by the restated certificate, is the certificate of limited partnership, but the original effective date of formation of the limited partnership

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1 remains unchanged.

2 (d) Any amendment or change effected in connection with the  
3 restatement and integration of the certificate of limited partnership  
4 under this section is subject to any other provision of this article that is  
5 not inconsistent with this section and that would apply if a separate  
6 certificate of amendment were filed to effect the amendment or change.

7 SECTION 230. IC 23-16-3-12 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. (a) A  
9 domestic limited partnership may merge with or into one (1) or more  
10 domestic limited partnerships or foreign limited partnerships formed  
11 under the laws of another state, with one (1) partnership, as provided  
12 in the merger agreement, being the surviving partnership.

13 (b) A domestic limited partnership that is not the surviving  
14 partnership in the merger shall file a certificate of cancellation, which  
15 must have an effective date not later than the effective date of the  
16 merger.

17 (c) If, following a merger of one (1) or more domestic limited  
18 partnerships and one (1) or more foreign limited partnerships formed  
19 under the laws of another state, the surviving partnership is not a  
20 domestic limited partnership, the surviving partnership shall execute  
21 a certificate, which must be attached to the certificate of cancellation  
22 filed for each domestic limited partnership under section 4 of this  
23 chapter, that states that it agrees that it may be served with process in  
24 Indiana in any action for the enforcement of any obligation of the  
25 domestic limited partnership, that irrevocably appoints the ~~secretary of~~  
26 **state attorney general** as its agent to accept service of process in any  
27 such action, and that specifies the address to which the ~~secretary of~~  
28 **state attorney general** may mail a copy of process served in any such  
29 action. If there is service of process on the ~~secretary of state attorney~~  
30 **general** under this subsection, the plaintiff in any such action shall  
31 furnish the ~~secretary of state department~~ with the address specified in  
32 the certificate provided for in this section and any other address that the  
33 plaintiff may elect to furnish, and the ~~secretary of state attorney~~  
34 **general** shall notify the surviving partnership at all such addresses  
35 furnished by the plaintiff in accordance with this section.

36 (d) When the certificate of cancellation required by section 4 of this  
37 chapter becomes effective, for all purposes of the laws of Indiana, all  
38 of the rights, privileges, and powers of each of the partnerships that  
39 have merged, and all real property, personal property, and mixed  
40 property and all debts due to any of the partnerships, as well as all other  
41 things and causes of action belonging to each of the partnerships, shall  
42 be vested in the surviving partnership and become the property of the

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1 surviving partnership as they were of each of the partnerships that have  
 2 merged. The title to any real property vested by deed or otherwise  
 3 under the laws of Indiana in any of the partnerships does not revert and  
 4 is not impaired by reason of this chapter. However, all rights of  
 5 creditors and all liens upon any property of any of the partnerships are  
 6 preserved unimpaired, and all debts, liabilities, and duties of each of  
 7 the partnerships that have merged attach to the surviving partnership  
 8 and may be enforced against it to the same extent as if those debts,  
 9 liabilities, and duties had been incurred or contracted by it.

10 SECTION 231. IC 23-16-7-3 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. A limited  
 12 partner may withdraw from a limited partnership at the time or upon  
 13 the happening of events specified in the partnership agreement and in  
 14 accordance with the partnership agreement. If the partnership  
 15 agreement does not specify in writing:

- 16 (1) the time or the events upon the happening of which a limited
- 17 partner may withdraw; or
- 18 (2) a definite time for the dissolution and winding up of the
- 19 limited partnership;

20 a limited partner may withdraw upon not less than six (6) months prior  
 21 written notice to each general partner at the general partner's address  
 22 as set forth in the certificate of limited partnership filed ~~in~~ **with the**  
 23 ~~office of the secretary of state.~~ **department.**

24 SECTION 232. IC 23-16-10-2 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) Before  
 26 transacting business in Indiana, a foreign limited partnership shall  
 27 register with the ~~secretary of state.~~ **department.** In order to register, a  
 28 foreign limited partnership must submit to the ~~secretary of state~~  
 29 **department** an original copy executed by a general partner, together  
 30 with a duplicate copy, of an application for registration as a foreign  
 31 limited partnership, signed and sworn to under penalties for perjury by  
 32 a general partner. The application must set forth the following:

- 33 (1) The name of the foreign limited partnership and, if different,
- 34 the name under which it proposes to register and transact business
- 35 in Indiana.
- 36 (2) The state, territory, possession, foreign country, or other
- 37 jurisdiction where the limited partnership was organized, the date
- 38 of its formation and a statement signed by a general partner that,
- 39 as of the date of filing, the foreign limited partnership validly
- 40 exists as a limited partnership under the laws of the jurisdiction
- 41 of its organization.
- 42 (3) The nature of the business or purpose to be promoted in



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1 Indiana.

2 (4) The name and address of the registered agent for service of  
3 process required under section 4 of this chapter.

4 (5) The name and business address, residence address, or mailing  
5 address of each general partner.

6 (6) The date on which the foreign limited partnership first  
7 transacted, or intends to transact, business in Indiana.

8 (7) The address of the office at which is kept a list of the names  
9 and addresses of the limited partners and the capital contributions  
10 of each, together with a statement by the foreign limited  
11 partnership that it will keep those records until the foreign limited  
12 partnership's registration in Indiana is cancelled.

13 (b) The following activities, among others, do not constitute  
14 transacting business within the meaning of subsection (a):

15 (1) Maintaining, defending, or settling any proceeding.

16 (2) Holding meetings of the partners or carrying on other  
17 activities concerning internal partnership affairs.

18 (3) Maintaining bank accounts.

19 (4) Maintaining offices or agencies for the transfer, exchange, and  
20 registration of the partnership's own securities or maintaining  
21 trustees or depositaries with respect to those securities.

22 (5) Selling through independent contractors.

23 (6) Soliciting or obtaining orders, whether by mail or through  
24 employees or agents or otherwise, if the orders require acceptance  
25 outside Indiana before they become contracts.

26 (7) Creating or acquiring indebtedness, mortgages, and security  
27 interests in real or personal property.

28 (8) Securing or collecting debts or enforcing mortgages and  
29 security interests in property securing the debts.

30 (9) Owning, without more, real or personal property.

31 (10) Conducting an isolated transaction that is completed within  
32 thirty (30) days and that is not one (1) of a course of repeated  
33 transactions of a like nature.

34 (11) Transacting business in interstate commerce.

35 (c) Service of legal process upon any foreign limited partnership  
36 shall be made as provided in IC 23-16-2-3, except the ~~secretary of state~~  
37 **attorney general** is the agent for service of process for a foreign  
38 limited partnership transacting business in Indiana without registration.

39 SECTION 233. IC 23-16-10-3 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) If the  
41 ~~secretary of state~~ **department** finds that an application for registration  
42 conforms to law and all requisite fees have been paid, the ~~secretary of~~

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1 **state department** shall do the following:

2 (1) Endorse on the application the word "filed", and the date and  
3 time of the filing. This endorsement is conclusive evidence of the  
4 date and time of its filing in the absence of fraud.

5 (2) File the original application.

6 (3) Issue a certificate of registration to transact business in  
7 Indiana.

8 (b) The certificate of registration, together with a copy of the  
9 application, shall be returned to the person who filed the application or  
10 to that person's representative.

11 SECTION 234. IC 23-16-10-4 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) Except as  
13 provided in subsection (b), a foreign limited partnership may register  
14 with the **secretary of state department** under any name (whether or not  
15 it is the name under which it is registered in the jurisdiction of its  
16 organization) that:

17 (1) includes the words "limited partnership" or the abbreviation  
18 "L.P."; and

19 (2) could be registered by a domestic limited partnership.

20 (b) A foreign limited partnership may apply to the **secretary of state**  
21 **department** to use a name that is not distinguishable upon the  
22 **secretary of state's department's** records from one (1) or more of the  
23 names described in subsection (a). The **secretary of state department**  
24 shall authorize use of the name applied for if:

25 (1) the other domestic or foreign limited partnership files its  
26 written consent to the use of its name, signed by any current  
27 general partner of the other limited partnership and verified  
28 subject to the penalties for perjury; or

29 (2) the applicant delivers to the **secretary of state department** a  
30 certified copy of a final court judgment establishing the  
31 applicant's right to use the name applied for in Indiana.

32 (c) Each foreign limited partnership shall have and maintain:

33 (1) an office, which may be (but need not be) a place of its  
34 business in Indiana; and

35 (2) a registered agent whose business address is in Indiana for  
36 service of process on the foreign limited partnership, which may  
37 be:

38 (A) an individual resident of Indiana; or

39 (B) a domestic corporation or a foreign corporation authorized  
40 to transact business in Indiana.

41 (d) A foreign limited partnership may change its registered agent by  
42 delivering to the **secretary of state department** for filing a statement

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1 containing the following:

- 2 (1) The name of the foreign limited partnership.
- 3 (2) The name of its current registered agent.
- 4 (3) The name and business address of the new registered agent
- 5 and the new agent's consent to the appointment (either on the
- 6 statement or attached to it).

7 (e) If a registered agent changes the address of the registered agent's  
8 business office, the registered agent must notify the foreign limited  
9 partnership in writing of the change, and sign and deliver to the  
10 ~~secretary of state~~ **department** for filing a statement that complies with  
11 the requirements of subsection (d) and recites that the foreign limited  
12 partnership has been notified of the change.

13 (f) A registered agent may resign the agency appointment by signing  
14 and delivering to the ~~secretary of state~~ **department** for filing the signed  
15 original and two (2) exact or conformed copies of a statement of  
16 resignation. After filing the statement, the ~~secretary of state~~  
17 **department** shall mail one (1) copy to the partnership at the office  
18 referred to in subsection (c)(1). The agency appointment is terminated  
19 on the thirty-first day after the date on which the statement was filed.

20 SECTION 235. IC 23-16-10-6 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. If any  
22 statement in the application for registration of a foreign limited  
23 partnership was false when made or any arrangements or other facts  
24 described in the application have changed, making the application false  
25 in any respect, the foreign limited partnership shall, within sixty (60)  
26 days after such a change, file ~~in with the office of the secretary of state~~  
27 **department** a certificate, signed and sworn to under penalties for  
28 perjury by a general partner, correcting the statement.

29 SECTION 236. IC 23-16-10-7 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. A foreign  
31 limited partnership may cancel its registration by filing with the  
32 ~~secretary of state~~ **department** a certificate of cancellation signed and  
33 sworn to under penalties for perjury by a general partner. A  
34 cancellation does not terminate the authority of the ~~secretary of state~~  
35 **department** to accept service of process on the foreign limited  
36 partnership with respect to causes of action arising out of the  
37 transaction of business in Indiana.

38 SECTION 237. IC 23-16-10-8 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) A foreign  
40 limited partnership transacting business in Indiana may not maintain  
41 any action in any court of Indiana until it has registered in Indiana  
42 under this chapter and paid to the state all fees and penalties for the

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years during which it did business in Indiana without having registered.

(b) The failure of a foreign limited partnership to register in Indiana does not:

(1) impair the validity of any contract or act of the foreign limited partnership;

(2) impair the right of any other party to a contract with the foreign limited partnership to maintain any action on the contract;

or

(3) prevent the foreign limited partnership from defending any action in any court of Indiana.

(c) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in Indiana without registration.

(d) A foreign limited partnership, by transacting business in Indiana without registration, appoints the ~~secretary of state~~ **attorney general** as its agent for service of process with respect to causes of action arising out of the transaction of business in Indiana.

SECTION 238. IC 23-16-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) After July 1, 1988, this article applies to all domestic and foreign limited partnerships, except as provided in this section.

(b) IC 23-16-6-1, IC 23-16-6-2, and IC 23-16-7-8 apply only to contributions and distributions made after July 1, 1988.

(c) IC 23-16-8-4 applies only to assignments made after July 1, 1988.

(d) IC 23-16-10 does not apply before January 1, 1989.

(e) Unless agreed otherwise by all of the partners, the applicable provisions of IC 23-4-2 (repealed effective July 1, 1993) governing allocation of profits and losses (rather than the provisions of IC 23-16-6-3), distributions to a withdrawing partner (rather than the provisions of IC 23-16-7-4), and distribution of assets upon the winding up of a limited partnership (rather than the provisions of IC 23-16-9-4) govern limited partnerships formed before July 1, 1988.

(f) A limited partnership existing under IC 23-4-2 before July 1, 1988, is not required to file a certificate of limited partnership complying with IC 23-16-3 with the ~~secretary of state~~ **department**, and is not subject to or governed by IC 23-16-3-2, until the earlier of the following:

(1) The voluntary filing by the limited partnership of a certificate of limited partnership with the ~~secretary of state~~ **department** in the manner required by this article.

(2) July 1, 1993.



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(g) Until July 1, 1993, a limited partnership existing under IC 23-4-2 before July 1, 1988, that does not file a certificate of limited partnership in accordance with subsection (f)(1) is governed by IC 23-4-2.

(h) If a limited partnership existing under IC 23-4-2 before July 1, 1988, does not file a certificate of limited partnership or a certificate of amendment with the ~~secretary of state~~ **department** by July 1, 1993, and no event has occurred that, under this article, requires the filing of a certificate of amendment, then:

(1) the limited partnership continues to exist as a limited partnership under this article, and the failure to file a certificate with the ~~secretary of state~~ **department** does not impair the validity of any contract or act of the limited partnership nor prevent the limited partnership from defending any action in any court in Indiana;

(2) a limited partner of the limited partnership is not liable as a general partner solely by reason of the failure to file a certificate with the ~~secretary of state~~ **department**; and

(3) the limited partnership may not maintain an action in any court of Indiana until it has filed a certificate with the ~~secretary of state~~ **department** in compliance with this article.

SECTION 239. IC 23-16-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) The ~~secretary of state~~ **department** shall collect the following fees when the documents described in this section are delivered by a domestic or foreign limited partnership or a foreign limited liability company to the ~~secretary of state~~ **department** for filing:

Document	Fee
(1) Application for reservation of name . . . . .	\$20
(2) Application for use of indistinguishable name . . . . .	\$20
(3) Application for renewal of reservation . . . . .	\$20
(4) Notice of transfer or cancellation of reservation . . . . .	\$20
(5) Certificate of change of registered agent's business address . . . . .	No fee
(6) Certificate of resignation of agent . . . . .	No fee
(7) Certificate of limited partnership . . . . .	\$90
(8) Certificate of amendment . . . . .	\$30
(9) Certificate of cancellation . . . . .	\$90
(10) Restated certificate of limited partnership or registration . . . . .	\$30
(11) Restated certificate of limited partnership or registration with amendments . . . . .	\$30



- 1 (12) Application for registration ..... \$90  
 2 (13) Certificate of change of application ..... \$30  
 3 (14) Certificate of cancellation of  
 4 registration ..... \$30  
 5 (15) Certificate of change of registered agent ..... No fee  
 6 (16) Application for certificate of existence or  
 7 authorization ..... \$15  
 8 (17) Any other document required or permitted to be  
 9 filed under this article, including an application  
 10 for any other certificates or certification  
 11 certificate (except for any such other certificates  
 12 that the ~~secretary of state~~ **department** may determine to issue  
 13 without additional fee in connection with particular  
 14 filings) ..... \$30

15 (b) The ~~secretary of state~~ **attorney general** shall collect a fee  
 16 of ten dollars (\$10) each time process is served on the ~~secretary of state~~  
 17 **attorney general** under this article. If the party to a proceeding causing  
 18 service of process prevails in the proceeding, then that party is entitled  
 19 to recover this fee as costs from the nonprevailing party.

20 (c) The ~~secretary of state~~ **attorney general** shall collect the  
 21 following fees for copying and certifying the copy of any filed  
 22 document relating to a domestic or foreign limited partnership:

- 23 (1) Per page for copying ..... \$ 1  
 24 (2) For a certification stamp ..... \$15

25 SECTION 240. IC 23-16-12-5 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) A document  
 27 must satisfy the requirements of this article to be entitled to filing by  
 28 the ~~secretary of state~~ **department**.

29 (b) The document must contain the information required by this  
 30 article. It may contain other information as well.

31 (c) The document must be typewritten or printed.

32 (d) The document must be legible and otherwise suitable for filing.

33 (e) The document must be in the English language. A limited  
 34 partnership name need not be in English if written in English letters or  
 35 Arabic or Roman numerals.

36 (f) Every person executing the document shall sign it and state  
 37 beneath or opposite the signature the person's name and the capacity in  
 38 which the person signs. A signature on a document authorized to be  
 39 filed under this article may be a facsimile.

40 (g) The document must be delivered to the ~~office of the secretary of~~  
 41 **state department** as required by section 5.1 of this chapter, and the  
 42 correct filing fee must be paid in the manner and form required by the

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1 ~~secretary of state~~ **department**.

2 (h) The ~~secretary of state~~ **department** may accept payment of the  
3 correct filing fee by credit card, debit card, charge card, or similar  
4 method. However, if the filing fee is paid by credit card, debit card,  
5 charge card, or similar method, the liability is not finally discharged  
6 until the ~~secretary of state~~ **department** receives payment or credit from  
7 the institution responsible for making the payment or credit. The  
8 ~~secretary of state~~ **department** may contract with a bank or credit card  
9 vendor for acceptance of bank or credit cards. However, if there is a  
10 vendor transaction charge or discount fee, whether billed to the  
11 ~~secretary of state~~ **department** or charged directly to the ~~secretary of~~  
12 ~~state's department's~~ account, the ~~secretary of state~~ **department** or the  
13 credit card vendor may collect from the person using the bank or credit  
14 card a fee that may not exceed the highest transaction charge or  
15 discount fee charged to the ~~secretary of state~~ **department** by the bank  
16 or credit card vendor during the most recent collection period. This fee  
17 may be collected regardless of any agreement between the bank and a  
18 credit card vendor or regardless of any internal policy of the credit card  
19 vendor that may prohibit this type of fee. The fee is a permitted  
20 additional charge under IC 24-4.5-3-202.

21 SECTION 241. IC 23-16-12-5.1 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5.1. (a) For  
23 purposes of this article, a document is delivered for filing if the  
24 document is transferred to the ~~secretary of state~~ **department** by hand,  
25 mail, telecopy, facsimile, or other form of electronic transmission  
26 meeting the requirements established by the ~~secretary of state~~  
27 **department**.

28 (b) If a document is delivered for filing by hand or mail, the  
29 document must be accompanied by:

30 (1) two (2) exact or conformed copies of a document filed under  
31 IC 23-16-2-4 or IC 23-16-10-4; or

32 (2) one (1) exact or conformed copy of any other document filed  
33 under this article.

34 (c) The ~~office of the secretary of state~~ **department** shall create any  
35 copies of a document delivered by telecopy, facsimile, or other form of  
36 electronic transmission that are required for distribution under this  
37 article.

38 SECTION 242. IC 23-17-1-1 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) After July  
40 31, 1993, this article applies to a domestic corporation in existence on  
41 July 31, 1993, that was incorporated under or subject to the following:

42 (1) IC 23-7-1.1.



(2) The Indiana general not for profit corporation act of 1935.

(b) After July 31, 1991, an entity organized under Indiana law for a purpose for which a corporation may be organized under this article may accept the provisions of this article and avail the corporation of the rights, privileges, immunities, and franchises provided by this article by taking the following actions:

(1) The entity's board of directors or governing body must adopt a resolution electing to have this article apply to the entity.

(2) The resolution must specify a date after July 31, 1991, after which the provisions of this article will apply to the entity.

(3) The resolution must be filed with the ~~secretary of state~~, **department**, with a statement providing the name and address of the entity's registered agent before the date specified under subdivision (2).

SECTION 243. IC 23-17-2-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 8.5. "Department" refers to the department of commerce created by IC 4-3-2-2.**

SECTION 244. IC 23-17-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. At least one (1) person may act as the incorporator of a corporation by signing and delivering articles of incorporation to the ~~secretary of state~~ **department** for filing.

SECTION 245. IC 23-17-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) Unless a delayed effective date is specified, a corporate existence begins when articles of incorporation are filed.

(b) The filing of articles of incorporation by the ~~secretary of state~~ **department** is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

SECTION 246. IC 23-17-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A corporate name:

(1) must contain the word "corporation", "incorporated", "company", or "limited" or the abbreviation "corp.", "inc.", "co.", or "Ltd.", or similar words or abbreviations in another language; and

(2) except as provided in subsection (e), may not contain language stating or implying that the corporation is organized for a purpose other than a purpose permitted by this article and the corporation's

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articles of incorporation.

(b) Except as authorized under subsections (c) and (d), a corporate name must be distinguishable upon the records of the ~~secretary of state~~ **department** from the following:

(1) The corporate name of a nonprofit or business corporation incorporated or authorized to do business in Indiana.

(2) A corporate name reserved or registered under section 2 or 3 of this chapter.

(3) The fictitious name of a foreign business or nonprofit corporation authorized to transact business in Indiana because a real name is unavailable.

(c) A corporation may apply to the ~~secretary of state~~ **department** for authorization to use a name that is not distinguishable upon the ~~secretary of state's~~ **department's** records from at least one (1) of the names described in subsection (b). The ~~secretary of state~~ **department** shall authorize use of the name applied for if:

(1) the other corporation consents to the use in writing; or

(2) the applicant delivers to the ~~secretary of state~~ **department** a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in Indiana.

(d) A corporation may use the name of another domestic or foreign business corporation that is used in Indiana if the other corporation is incorporated or authorized to do business in Indiana and the proposed user corporation:

(1) has merged with the other corporation;

(2) has been formed by reorganization of the other corporation; or

(3) has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(e) Except as provided under IC 23-17-26-6, this article does not control the use of fictitious names.

SECTION 247. IC 23-17-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the ~~secretary of state~~ **department** for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the ~~secretary of state~~ finds that the corporate name applied for is available, the ~~secretary of state~~ **department** shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred twenty (120) day period.

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(b) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the **secretary of state department** a signed notice of the transfer that states the name and address of the transferee.

SECTION 248. IC 23-17-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A foreign corporation may register the foreign corporation's:

(1) corporate name; or

(2) corporate name with any addition required under IC 23-17-26-6;

if the name is distinguishable upon the records of the **secretary of state department** as provided in section 1 of this chapter.

(b) A foreign corporation registers the foreign corporation's corporate name, with any addition required under IC 23-17-26-6, by delivering to the **secretary of state department** an application that meets the following conditions:

(1) Sets forth the following:

(A) The foreign corporation's corporate name, with any addition required by IC 23-17-26-6.

(B) The state or country and date of the foreign corporation's incorporation.

(C) A brief description of the nature of the activities in which the foreign corporation is engaged.

(2) Is accompanied by a certificate of existence or a similar document from the state or country of incorporation.

(c) The name is registered for the applicant's exclusive use upon the effective date of the application.

(d) A foreign corporation whose registration is effective may renew the registration for successive years by delivering to the **secretary of state department** for filing a renewal application that complies with the requirements of subsection (b) between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following year.

(e) A foreign corporation whose registration is effective may:

(1) qualify as a foreign corporation under that name; or

(2) consent in writing to the use of that name by:

(A) a domestic corporation subsequently incorporated under this article; or

(B) another foreign corporation subsequently authorized to transact business in Indiana.

The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the



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1 qualification of another foreign corporation under the registered name.

2 SECTION 249. IC 23-17-6-2 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) A  
4 corporation may change the corporation's registered office or registered  
5 agent by delivering to the **secretary of state department** for filing a  
6 statement of change that sets forth the following:

7 (1) The name of the corporation.

8 (2) The street address of the corporation's current registered  
9 office.

10 (3) If the current registered office is to be changed, the street  
11 address of the new registered office.

12 (4) The name of the corporation's current registered agent.

13 (5) If the current registered agent is to be changed, the name of  
14 the new registered agent and the new agent's written consent  
15 (either on or attached to the statement) to the appointment.

16 (b) After a change is made, the street addresses of the corporation's  
17 registered office and the business office of the corporation's registered  
18 agent will be identical.

19 (c) If a registered agent changes the street address of the registered  
20 agent's business office, the registered agent may change the street  
21 address of the registered office of a corporation that the registered  
22 agent serves by notifying the corporation in writing of the change and  
23 by signing, either manually or in facsimile, and delivering to the  
24 **secretary of state department** for filing a statement that does the  
25 following:

26 (1) Complies with the requirements of subsection (a).

27 (2) Recites that the corporation has been notified of the change.

28 SECTION 250. IC 23-17-6-3 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A registered  
30 agent may resign the agency appointment by signing and delivering to  
31 the **secretary of state department** for filing as described in IC 23-17-29  
32 a statement of resignation. The statement may include a statement that  
33 the registered office is also discontinued.

34 (b) After filing the statement, the **secretary of state department**  
35 shall mail one (1) copy to the corporation at the corporation's principal  
36 office, if known, and one (1) copy to the registered office, if not  
37 discontinued.

38 (c) The agency appointment is terminated, and the registered office  
39 discontinued if so provided, thirty-one (31) days after the date on which  
40 the statement is filed.

41 SECTION 251. IC 23-17-17-4 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) Unless



articles of incorporation provide otherwise, a corporation's board of directors may adopt at least one (1) amendment to the corporation's articles without member approval to do the following:

(1) To extend the duration of the corporation that was incorporated at a time when limited duration was required by law.

(2) To delete the names and addresses of the initial directors and incorporators.

(3) To delete the name and address of the initial registered agent or registered office if a statement of change is on file with the ~~secretary of state~~ **department**.

(4) To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name or by adding, deleting, or changing a geographical attribution to the name.

(5) To delete a mailing address if an annual report has been filed with the ~~secretary of state~~ **department**.

(6) To include a statement identifying the corporation as a public benefit, mutual benefit, or religious corporation.

(7) To make any other change expressly permitted by this article to be made by director action.

(b) If a corporation has no members, the corporation's incorporators may, until directors have been chosen and then the corporation's board of directors, adopt amendments to the corporation's articles of incorporation subject to any approval required under section 1 of this chapter. The amendment must be approved by a majority of the directors in office or, if the directors have not yet been chosen, by a majority of the incorporators, at the time the amendment is adopted. The corporation shall provide notice of a meeting at which an amendment is to be voted upon. The notice must do the following:

(1) Be in accordance with IC 23-17-15-3.

(2) State that the purpose of the meeting is to consider a proposed amendment to the articles of incorporation.

(3) Contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment.

SECTION 252. IC 23-17-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) A corporation amending the corporation's articles of incorporation must deliver to the ~~secretary of state~~ **department** articles of amendment setting forth the following:

(1) The name of the corporation.

(2) The date of the corporation's incorporation.



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- (3) The text of each amendment adopted.
  - (4) The date of each amendment's adoption.
  - (5) If approval of members was not required, a statement to that effect and a statement that the amendment was approved by a sufficient vote of the board of directors or incorporators.
  - (6) If approval by members was required, the following:
    - (A) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the amendment, and number of votes of each class indisputably voting on the amendment.
    - (B) Either:
      - (i) the total number of votes cast for and against the amendment by each class entitled to vote separately on the amendment; or
      - (ii) the total number of undisputed votes cast for the amendment by each class and a statement that the number cast for the amendment by each class was sufficient for approval by that class.
  - (7) If approval of the amendment was by a person other than the members, a statement under section 1 of this chapter that the approval was obtained.
  - (b) If a corporation amends the corporation's articles of incorporation to change the corporation's corporate name, the corporation may, after the amendment has become effective, file:
    - (1) for record with the county recorder of each county in Indiana in which the corporation has real property; and
    - (2) at the time the amendment becomes effective;
 a file-stamped copy of the articles of amendment. The validity of a change in name is not affected by a corporation's failure to record the articles of amendment.
- SECTION 253. IC 23-17-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) A corporation restating the corporation's articles of incorporation shall deliver to the ~~secretary of state~~ **department** articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth the following:
- (1) Whether the restatement contains an amendment to the articles of incorporation requiring approval by the members or another person other than the board of directors and, if the restatement does not, that the board of directors adopted the restatement.

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(2) If the restatement contains an amendment to the articles of incorporation requiring approval by the members, the information required under section 7 of this chapter.

(3) If the restatement contains an amendment to the articles of incorporation requiring approval by a person whose approval is required under section 1 of this chapter, a statement that the approval was obtained.

(b) The restatement of articles of incorporation must include all statements required to be included in original articles of incorporation except that no statement is required to be made with respect to the following:

(1) The names and addresses of the incorporators or the initial or present registered office or agent.

(2) The mailing address of the corporation if an annual report has been filed with the ~~secretary of state~~ **department**.

(c) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to the original articles of incorporation.

(d) The ~~secretary of state~~ **department** may certify restated articles of incorporation as the articles of incorporation currently in effect without including the certificate information required under subsection (a).

SECTION 254. IC 23-17-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. (a) A corporation's articles of incorporation may be amended without approval:

(1) of the board of directors;

(2) by the members; or

(3) as required by section 1 of this chapter;

to carry out a plan of reorganization ordered by a court of competent jurisdiction under federal statute if the articles of incorporation after amendment contain only provisions required or permitted under IC 23-17-3-2.

(b) An individual designated by a court shall deliver to the ~~secretary of state~~ **department** articles of amendment setting forth the following:

(1) The name of the corporation.

(2) The text of each amendment approved by the court.

(3) The date of the court's order or decree approving the articles of amendment.

(4) The title of the reorganization proceeding in which the order or decree was entered.

(5) A statement that the court had jurisdiction of the proceeding



under federal statute.

(c) This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

SECTION 255. IC 23-17-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) After a plan of merger is approved by the board of directors and if required by section 3 of this chapter by the members and any other persons, the surviving or acquiring corporation shall deliver to the ~~secretary of state~~ **department** articles of merger setting forth the following:

(1) The plan of merger.

(2) If approval of members was not required, a statement to that effect and a statement that the plan was approved by a sufficient vote of the board of directors.

(3) If approval by members was required, the following:

(A) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the plan, and number of votes of each class indisputably voting on the plan.

(B) Either the total number of votes cast for and against the plan by each class entitled to vote separately on the plan or the total number of undisputed votes cast for the plan by each class and a statement that the number cast for the plan by each class was sufficient for approval by that class.

(4) If approval of the plan by a person other than the members or the board of directors is required under section 3(a)(3) of this chapter, a statement that the approval was obtained.

(b) Unless a delayed effective date is specified, a merger takes effect when the articles of merger are filed.

(c) The surviving corporation resulting from a merger may, after the merger has become effective, file for record with the county recorder of each county in Indiana in which a merging corporation has real property at the time of the merger, the title to which will be transferred by the merger, a file-stamped copy of the articles of merger. If the plan of merger sets forth amendments to the articles of incorporation of the surviving corporation that change the surviving corporation's corporate name, a file-stamped copy of the articles of merger may be filed for record with the county recorder of each county in Indiana in which the surviving corporation has real property at the time the merger becomes effective. A failure to record a copy of the articles of merger under this subsection does not affect the validity of the merger or the change in

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1 corporate name.

2 SECTION 256. IC 23-17-19-6 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) Except as  
4 provided in section 2 of this chapter, foreign business or nonprofit  
5 corporations may merge with domestic nonprofit corporations if the  
6 following conditions are met:

7 (1) The merger is permitted by the law of the state or country  
8 under whose laws each foreign corporation is incorporated and  
9 each foreign corporation complies with that law in effecting the  
10 merger.

11 (2) The foreign corporation complies with section 4 of this  
12 chapter if the foreign corporation is the surviving corporation of  
13 the merger.

14 (3) Each domestic nonprofit corporation complies with sections  
15 1 through 3 of this chapter and, if the domestic nonprofit  
16 corporation is the surviving corporation of the merger, with  
17 section 4 of this chapter.

18 (b) Upon the merger taking effect, the surviving foreign business or  
19 nonprofit corporation is considered to have irrevocably appointed the  
20 **secretary of state attorney general** as the agent for service of process  
21 for the business or corporation in any proceeding brought against the  
22 business or corporation.

23 SECTION 257. IC 23-17-22-1 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. A majority of  
25 the incorporators or initial directors of a corporation that has no  
26 members or has not commenced activities may dissolve the corporation  
27 by delivering to the **secretary of state department** for filing articles of  
28 dissolution that set forth the following:

29 (1) The name of the corporation.

30 (2) The date of the corporation's incorporation.

31 (3) Either:

32 (A) that no membership in the corporation has been issued; or

33 (B) that the corporation has not commenced business.

34 (4) That no debt of the corporation remains unpaid.

35 (5) That a majority of the incorporators or initial directors  
36 authorized the dissolution.

37 SECTION 258. IC 23-17-22-3 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) After a  
39 dissolution is authorized, the corporation may dissolve by delivering to  
40 the **secretary of state department** articles of dissolution setting forth  
41 the following:

42 (1) The name of the corporation.

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(2) The date dissolution was authorized.

(3) A statement that dissolution was approved by a sufficient vote of the board of directors.

(4) If approval of members was not required, a statement to that effect and a statement that dissolution was approved by a sufficient vote of the board of directors or incorporators.

(5) If approval by members was required, the following:

(A) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on dissolution, and number of votes of each class indisputably voting on dissolution.

(B) The total number of:

(i) votes cast for and against dissolution by each class entitled to vote separately on dissolution; or

(ii) undisputed votes cast for dissolution by each class and a statement that the number cast for dissolution by each class was sufficient for approval by that class.

(6) If approval of dissolution was by a person other than the members, a statement that approval under section 2(b)(3) of this chapter was obtained.

(b) A corporation is dissolved upon the effective date of the corporation's articles of dissolution.

SECTION 259. IC 23-17-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) A corporation may revoke the corporation's dissolution within one hundred twenty (120) days of the effective date of the dissolution.

(b) Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless the authorization permitted revocation by action of the board of directors alone, allowing the board of directors to revoke the dissolution without action by the members or any other person.

(c) After the revocation of dissolution is authorized, a corporation may revoke the dissolution by delivering to the **secretary of state department** for filing articles of revocation of dissolution, together with a copy of the corporation's articles of dissolution, that set forth the following:

(1) The name of the corporation.

(2) The effective date of the dissolution that was revoked.

(3) The date that the revocation of dissolution was authorized.

(4) If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect.

(5) If the corporation's board of directors revoked a dissolution

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1 authorized by the members or in conjunction with another person,  
 2 a statement that revocation was permitted by action by the board  
 3 of directors alone under that authorization.

4 (6) If member or third person action was required to revoke the  
 5 dissolution, the information required by section 3(a)(5) and  
 6 3(a)(6) of this chapter.

7 (d) Revocation of dissolution is effective upon the effective date  
 8 specified in the articles of revocation of dissolution.

9 (e) When a revocation of dissolution is effective, the revocation  
 10 relates back to and takes effect as of the effective date of the  
 11 dissolution. The corporation resumes carrying on the corporation's  
 12 activities as if dissolution had never occurred.

13 SECTION 260. IC 23-17-23-1 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. The ~~secretary~~  
 15 ~~of state department~~ may commence a proceeding under section 2 of  
 16 this chapter to administratively dissolve a corporation if the following  
 17 occur:

18 (1) The corporation does not pay within sixty (60) days after they  
 19 are due any taxes or penalties imposed by this article or other law.

20 (2) The corporation does not deliver the corporation's annual  
 21 report to the ~~secretary of state department~~ within sixty (60) days  
 22 after the report is due.

23 (3) The corporation is without a registered agent or registered  
 24 office in Indiana for at least sixty (60) days.

25 (4) The corporation does not notify the ~~secretary of state~~  
 26 ~~department~~ within sixty (60) days that the corporation's:

27 (A) registered agent or registered office has been changed;

28 (B) registered agent has resigned; or

29 (C) registered office has been discontinued.

30 (5) The corporation's period of duration, if any, stated in the  
 31 corporation's articles of incorporation expires.

32 SECTION 261. IC 23-17-23-2 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) If the  
 34 ~~secretary of state department~~ determines that a ground exists under  
 35 section 1 of this chapter for dissolving a corporation, the ~~secretary of~~  
 36 ~~state department~~ shall serve the corporation with written notice of the  
 37 determination under IC 23-17-6-4.

38 (b) If the corporation does not:

39 (1) correct each ground for dissolution; or

40 (2) demonstrate to the reasonable satisfaction of the ~~secretary of~~  
 41 ~~state department~~ that each ground determined by the ~~secretary of~~  
 42 ~~state department~~ does not exist;

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1 within at least sixty (60) days after service of the notice is perfected  
 2 under IC 23-17-6-4, the **secretary of state department** may  
 3 administratively dissolve the corporation by signing a certificate of  
 4 dissolution that recites the grounds for dissolution and the effective  
 5 date of the dissolution. The **secretary of state department** shall file the  
 6 original of the certificate and serve a copy on the corporation under  
 7 IC 23-17-6-4.

8 (c) A corporation administratively dissolved continues the  
 9 corporation's corporate existence but may not carry on any activities  
 10 except those necessary to wind up and liquidate the corporation's  
 11 affairs under IC 23-17-22-5 and notify the corporation's claimants  
 12 under IC 23-17-22-6 and IC 23-17-22-7.

13 (d) The administrative dissolution of a corporation does not  
 14 terminate the authority of the corporation's registered agent.

15 SECTION 262. IC 23-17-23-3 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A  
 17 corporation administratively dissolved under section 2 of this chapter  
 18 may apply to the **secretary of state department** for reinstatement. An  
 19 application for reinstatement must do the following:

20 (1) Recite the name of the corporation and the effective date of  
 21 the corporation's administrative dissolution.

22 (2) State that the ground or grounds for dissolution either did not  
 23 exist or have been eliminated.

24 (3) State that the corporation's name satisfies the requirements of  
 25 IC 23-17-5-1.

26 (4) Contain a certificate from the department of state revenue  
 27 reciting that taxes owed by the corporation have been paid.

28 (b) If the **secretary of state department** determines that:

29 (1) the application contains the information required by  
 30 subsection (a); and

31 (2) the information is correct;

32 the **secretary of state department** shall cancel the certificate of  
 33 dissolution and prepare a certificate of reinstatement reciting that  
 34 determination and the effective date of reinstatement, file the original  
 35 of the certificate, and serve a copy on the corporation under  
 36 IC 23-17-6-4.

37 (c) When reinstatement becomes effective, the reinstatement relates  
 38 back to and takes effect as of the effective date of the administrative  
 39 dissolution and the corporation resumes carrying on the corporation's  
 40 activities as if the administrative dissolution had never occurred.

41 SECTION 263. IC 23-17-23-4 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) If the



1 ~~secretary of state~~ **department** denies a corporation's application for  
 2 reinstatement following administrative dissolution, the ~~secretary of~~  
 3 ~~state~~ **department** shall serve the corporation under IC 23-17-6-4 with  
 4 a written notice that explains the reason or reasons for denial.

5 (b) The corporation may appeal the denial of reinstatement to the  
 6 circuit court or superior court of the county where:

- 7 (1) the corporation's principal office is located; or
- 8 (2) if the principal office is not located in Indiana, the
- 9 corporation's registered office is located;

10 within thirty (30) days after service of the notice of denial is perfected.

11 (c) A corporation appeals by petitioning the court to set aside the  
 12 dissolution and attaching to the petition copies of the following:

- 13 (1) The ~~secretary of state's~~ **department's** certificate of
- 14 dissolution.
- 15 (2) The corporation's application for reinstatement.
- 16 (3) The ~~secretary of state's~~ **department's** notice of denial.

17 (d) The court may do the following:

- 18 (1) Order the ~~secretary of state~~ **department** to reinstate the
- 19 dissolved corporation.
- 20 (2) Take other action the court considers appropriate.

21 (e) The court's final decision may be appealed as in other civil  
 22 proceedings.

23 SECTION 264. IC 23-17-24-4 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) If after a  
 25 hearing the court determines that a ground for judicial dissolution  
 26 described in section 1 of this chapter exists, the court may enter a  
 27 decree dissolving the corporation and specifying the effective date of  
 28 the dissolution. The clerk of the court shall deliver a certificate copy of  
 29 the decree to the ~~secretary of state, who~~ **department, which** shall file  
 30 the certificate copy.

31 (b) After entering the decree of dissolution, the court shall direct the  
 32 winding up and liquidating of the corporation's affairs in accordance  
 33 with IC 23-17-22-5 and the notification of the corporation's claimants  
 34 under IC 23-17-22-6 and IC 23-17-22-7.

35 SECTION 265. IC 23-17-26-1 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A foreign  
 37 corporation may not transact business in Indiana until the corporation  
 38 obtains a certificate of authority from the ~~secretary of state.~~  
 39 **department.**

40 (b) The following activities do not constitute transacting business  
 41 within the meaning of subsection (a):

- 42 (1) Maintaining, defending, or settling a proceeding.



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(2) Holding meetings of the board of directors or members or carrying on other activities concerning internal corporate affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange, and registration of memberships or securities or maintaining trustees or depositaries with respect to the securities.

(5) Selling through independent contractors.

(6) Soliciting or obtaining orders, by mail or through employees or agents, if the orders require acceptance outside of Indiana before the orders become contracts.

(7) Making loans or otherwise creating or acquiring indebtedness, mortgages, and security interests in real or personal property.

(8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

(9) Owning real or personal property.

(10) Conducting an isolated transaction that is completed within thirty (30) days and that is not in the course of repeated transactions of a similar nature.

(11) Transacting business in interstate commerce.

(12) Soliciting funds if otherwise authorized by Indiana law.

SECTION 266. IC 23-17-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A foreign corporation may apply for a certificate of authority to transact business in Indiana by delivering an application to the ~~secretary of state~~ **department**. The application must set forth the following:

(1) The name of the foreign corporation or, if the foreign corporation's name is unavailable for use in Indiana, a corporate name that satisfies the requirements of section 6 of this chapter.

(2) The name of the state or country under whose law the foreign corporation is incorporated.

(3) The date of incorporation and period of duration.

(4) The street address of the foreign corporation's principal office.

(5) The address of the foreign corporation's registered office in Indiana and the name of the foreign corporation's registered agent at the office.

(6) The names and usual business addresses of the foreign corporation's current directors and officers.

(7) Whether the foreign corporation has members.

(8) Whether the corporation, if the foreign corporation had been incorporated in Indiana, would be a public benefit, mutual benefit, or religious corporation.

(b) The foreign corporation must deliver with the completed

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1 application a certificate of existence or a similar document duly  
 2 authenticated by the **secretary of state department** or other official  
 3 having custody of corporate records in the state or country under whose  
 4 law the foreign corporation is incorporated.

5 SECTION 267. IC 23-17-26-4 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) A foreign  
 7 corporation authorized to transact business in Indiana must obtain an  
 8 amended certificate of authority from the **secretary of state department**  
 9 if the corporation changes any of the following:

- 10 (1) The foreign corporation's corporate name.
- 11 (2) The period of the foreign corporation's duration.
- 12 (3) The state or country of the foreign corporation's incorporation.

13 (b) The requirements of section 3 of this chapter for obtaining an  
 14 original certificate of authority apply to obtaining an amended  
 15 certificate under this section.

16 SECTION 268. IC 23-17-26-6 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) If the  
 18 corporate name of a foreign corporation does not satisfy the  
 19 requirements of IC 23-17-5-1, the foreign corporation may, to obtain  
 20 or maintain a certificate of authority to transact business in Indiana:

- 21 (1) add the word "corporation", "incorporated", "company", or
- 22 "limited" or the abbreviation "corp.", "inc.", "co.", or "ltd.", to the
- 23 foreign corporation's corporate name for use in Indiana; or
- 24 (2) use a fictitious name to transact business in Indiana if the
- 25 foreign corporation's real name is unavailable and the foreign
- 26 corporation delivers to the **secretary of state department** for filing
- 27 a copy of the resolution of the foreign corporation's board of
- 28 directors, certified by the foreign corporation's secretary, adopting
- 29 the fictitious name.

30 (b) Except as authorized by subsections (c) and (d), the corporate  
 31 name, including a fictitious name, of a foreign corporation must be  
 32 distinguishable upon the records of the **secretary of state department**  
 33 from the following:

- 34 (1) The corporate name of a corporation incorporated or
- 35 authorized to transact business in Indiana under IC 23-1.
- 36 (2) A corporate name reserved or registered under IC 23-17-5-2,
- 37 IC 23-17-5-3, IC 23-1-23-2, or IC 23-1-23-3.
- 38 (3) The fictitious name of another foreign business or nonprofit
- 39 corporation authorized to transact business in Indiana.
- 40 (4) The name of a nonprofit entity organized or authorized to
- 41 transact business in Indiana.

42 (c) A foreign corporation may apply to the **secretary of state**

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**department** for authorization to use in Indiana the name of another corporation incorporated or authorized to transact business in Indiana that is not distinguishable upon the ~~secretary of state's~~ **department's** records from the name applied for. The ~~secretary of state~~ **department** shall authorize use of the name applied for if:

- (1) the other corporation consents to the use in writing and submits an undertaking in a form satisfactory to the ~~secretary of state~~ **department** to change the other corporation's name to a name that is distinguishable upon the records of the ~~secretary of state~~ **department** from the name of the applying corporation; or
- (2) the applicant delivers to the ~~secretary of state~~ **department** a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in Indiana.

(d) A foreign corporation may use in Indiana the name, including the fictitious name, of another domestic or foreign corporation that is used in Indiana if the other corporation is incorporated or authorized to transact business in Indiana and the foreign corporation has:

- (1) merged with the other corporation;
- (2) been formed by reorganization of the other corporation; or
- (3) acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(e) If a foreign corporation authorized to transact business in Indiana changes the foreign corporation's corporate name to a name that does not satisfy the requirements of IC 23-17-5-1, the foreign corporation may not transact business in Indiana under the changed name until the foreign corporation adopts a name satisfying the requirements of IC 23-17-5-1 and obtains an amended certificate of authority under section 4 of this chapter.

SECTION 269. IC 23-17-26-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) A foreign corporation authorized to transact business in Indiana may change the foreign corporation's registered office or registered agent by delivering to the ~~secretary of state~~ **department** for filing a statement of change that sets forth the following:

- (1) The foreign corporation's name.
- (2) The street address of the foreign corporation's current registered office.
- (3) If the current registered office is to be changed, the street address of the foreign corporation's new registered office.
- (4) The name of the foreign corporation's current registered agent.
- (5) If the current registered agent is to be changed, the name of



the foreign corporation's new registered agent and the new agent's written consent or a representation that the new registered agent has consented, either on the statement or attached to the statement, to the appointment.

(6) That after the change is made, the street addresses of the foreign corporation's registered office and the business office of the foreign corporation's registered agent will be identical.

(b) If a registered agent changes the street address of the agent's business office, the agent may change the street address of the registered office of any foreign corporation that the registered agent serves by notifying the corporation in writing of the change and signing, either manually or in facsimile, and delivering to the ~~secretary of state~~ **department** for filing a statement of change that complies with the requirements of subsection (a) and recites that the corporation has been notified of the change.

SECTION 270. IC 23-17-26-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) The registered agent of a foreign corporation may resign the agency appointment by signing and delivering to the ~~secretary of state~~ **department** for filing as described in IC 23-17-29 a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

(b) After filing the statement, the ~~secretary of state~~ **department** shall attach the filing receipt to one (1) copy and mail the copy and receipt to the registered office if not discontinued. The ~~secretary of state~~ **department** shall mail one (1) copy to the foreign corporation at the foreign corporation's principal office address shown in the foreign corporation's most recent annual report.

(c) The agency appointment is terminated, and the registered office discontinued if so provided, thirty-one (31) days after the date on which the statement was filed.

SECTION 271. IC 23-17-26-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 11. (a) A foreign corporation authorized to transact business in Indiana may not withdraw from Indiana until the foreign corporation obtains a certificate of withdrawal from the ~~secretary of state~~ **department**.

(b) A foreign corporation authorized to transact business in Indiana may apply for a certificate of withdrawal by delivering an application to the ~~secretary of state~~ **department** for filing. The application must set forth the following:

(1) The name of the foreign corporation and the name of the state or country under whose law the foreign corporation is



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1 incorporated.

2 (2) That the foreign corporation is not transacting business in  
3 Indiana and that the foreign corporation surrenders the foreign  
4 corporation's authority to transact business in Indiana.

5 (3) That the foreign corporation revokes the authority of the  
6 foreign corporation's registered agent to accept service on the  
7 foreign corporation's behalf and appoints the ~~secretary of state~~  
8 **department** as the foreign corporation's agent for service of  
9 process in any proceeding based on a cause of action arising  
10 during the time the foreign corporation was authorized to transact  
11 business in Indiana.

12 (4) A mailing address to which the ~~secretary of state~~ **department**  
13 may mail a copy of any process served on the ~~secretary of state~~  
14 **department** under subdivision (3).

15 (5) A commitment to notify the ~~secretary of state~~ **department** in  
16 the future of any change in the mailing address.

17 (c) After the withdrawal of the foreign corporation is effective,  
18 service of process on the ~~secretary of state~~ **attorney general** under this  
19 section is service on the foreign corporation. Upon receipt of process,  
20 the ~~secretary of state~~ **attorney general** shall mail a copy of the process  
21 to the foreign corporation at the mailing address set forth in the foreign  
22 corporation's application for withdrawal.

23 SECTION 272. IC 23-17-26-12 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. The ~~secretary~~  
25 ~~of state~~ **department** may commence a proceeding under IC 23-17-23-2  
26 to revoke the certificate of authority of a foreign corporation authorized  
27 to transact business in Indiana if any of the following conditions exists:

28 (1) The foreign corporation does not deliver the annual report to  
29 the ~~secretary of state~~ **department** within sixty (60) days after the  
30 report is due.

31 (2) The foreign corporation is without a registered agent or  
32 registered office in Indiana for at least sixty (60) days.

33 (3) The foreign corporation does not inform the ~~secretary of state~~  
34 **department** under section 8 or 9 of this chapter that the foreign  
35 corporation's:

36 (A) registered agent or registered office has changed;

37 (B) registered agent has resigned; or

38 (C) registered office has been discontinued within sixty (60)  
39 days of the change, resignation, or discontinuance.

40 (4) An incorporator, a director, an officer, or an agent of the  
41 foreign corporation signed a document the incorporator, director,  
42 officer, or agent knew was false in any material respect with the

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1 intent that the document be delivered to the ~~secretary of state~~  
2 **department** for filing.

3 (5) The ~~secretary of state department~~ receives a duly  
4 authenticated certificate from the secretary of state or other  
5 official having custody of corporate records in the state or country  
6 under whose law the foreign corporation is incorporated stating  
7 that the foreign corporation has been dissolved or disappeared as  
8 the result of a merger.

9 SECTION 273. IC 23-17-26-13 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13. (a) If the  
11 ~~secretary of state department~~ determines that a ground exists under  
12 section 12 of this chapter for revocation of a certificate of authority, the  
13 ~~secretary of state department~~ shall, under section 10 of this chapter,  
14 serve the foreign corporation with written notice of the determination.

15 (b) If the foreign corporation does not correct each ground for  
16 revocation or demonstrate to the reasonable satisfaction of the ~~secretary~~  
17 ~~of state department~~ that each ground determined by the ~~secretary of~~  
18 ~~state department~~ does not exist within sixty (60) days after service of  
19 the notice is perfected under section 10 of this chapter, the ~~secretary of~~  
20 ~~state department~~ may revoke the foreign corporation's certificate of  
21 authority by signing a certificate of revocation that recites the ground  
22 for revocation and the revocation's effective date. The ~~secretary of state~~  
23 ~~department~~ shall file the original of the certificate and serve a copy on  
24 the foreign corporation under section 10 of this chapter.

25 (c) The authority of a foreign corporation to transact business in  
26 Indiana ceases on the date shown on the certificate revoking the foreign  
27 corporation's certificate of authority.

28 (d) The ~~secretary of state's department's~~ revocation of a foreign  
29 corporation's certificate of authority appoints the ~~secretary of state~~  
30 **attorney general** the foreign corporation's agent for service of process  
31 in any proceeding based on a cause of action that arose during the time  
32 the foreign corporation was authorized to transact business in Indiana.  
33 Service of process on the ~~secretary of state attorney general~~ under this  
34 subsection is service on the foreign corporation. Upon receipt of  
35 process, the ~~secretary of state attorney general~~ shall mail a copy of the  
36 process to the secretary of the foreign corporation at the foreign  
37 corporation's principal office shown in the foreign corporation's most  
38 recent annual report or in any subsequent communication received  
39 from the corporation stating the current mailing address of the foreign  
40 corporation's principal office, or, if a report or communication is not on  
41 file, in the foreign corporation's application for a certificate of  
42 authority.



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(e) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the foreign corporation.

SECTION 274. IC 23-17-26-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. (a) A foreign corporation may appeal the ~~secretary of state's~~ **department's** revocation of the foreign corporation's certificate of authority to the circuit or superior court of the county in which the foreign corporation's registered office is located within thirty (30) days after service of the certificate of revocation is perfected under section 10 of this chapter. The foreign corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the foreign corporation's certificate of authority and the ~~secretary of state's~~ **department's** certificate of revocation.

(b) The court may do the following:

- (1) Order the ~~secretary of state~~ **department** to reinstate the certificate of authority.
- (2) Take any other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

SECTION 275. IC 23-17-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A corporation shall keep as permanent records a record of the following:

- (1) Minutes of meetings of the corporation's members and board of directors.
- (2) A record of actions taken by the members or directors without a meeting.
- (3) A record of actions taken by committees of the board of directors as authorized under IC 23-17-15-6(d).

(b) A corporation shall maintain appropriate accounting records.

(c) A corporation or the corporation's agent shall maintain a record of the corporation's members in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(d) A corporation shall maintain the corporation's records in written form or in another form capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at the corporation's principal office:

- (1) The corporation's articles of incorporation or restated articles of incorporation and all amendments to the articles of incorporation currently in effect.

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(2) The corporation's bylaws or restated bylaws and all amendments to the bylaws currently in effect.

(3) Resolutions adopted by the corporation's board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or a class or category of members.

(4) The minutes of all meetings of members and records of all actions approved by the members for the past three (3) years.

(5) Written communications to members generally within the past three (3) years, including the financial statements furnished for the past three (3) years under section 6 of this chapter.

(6) A list of the names and business or home addresses of the corporation's current directors and officers.

(7) The corporation's most recent annual report delivered to the **secretary of state department** under section 8 of this chapter.

SECTION 276. IC 23-17-27-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) An annual report accompanied by the filing fee must be filed with the **secretary of state department** by all nonprofit domestic and foreign corporations incorporated under this article or a previous statute. However, this section does not apply to a corporation that is already required to file an annual report with the **secretary of state department**.

(b) A domestic corporation and each foreign corporation authorized to transact business in Indiana shall deliver to the **secretary of state department** an annual report on a form prescribed and furnished by the **secretary of state department** that sets forth the following:

(1) The name of the corporation and the state or country under whose law the corporation is incorporated.

(2) The street address of the corporation's registered office and the name of the corporation's registered agent at the office in Indiana.

(3) The address of the corporation's principal office.

(4) The names and business or residence addresses of the corporation's directors, secretary, and highest executive officer.

(c) The information in the annual report must be current on the date the annual report is executed on behalf of the corporation.

(d) The first annual report must be delivered to the **secretary of state department** in the year following the year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. The report is due during the same month as the month in which the corporation was incorporated or authorized to transact business. Subsequent annual reports must be delivered to the **secretary of state department** during that same month in the following years. The **secretary of state department** may accept annual reports



1 during the two (2) months before the month that the corporation was  
2 incorporated or authorized to transact business.

3 (e) If an annual report does not contain the information required by  
4 this section, the ~~secretary of state~~ **department** shall promptly notify the  
5 reporting domestic or foreign corporation in writing and return the  
6 report to the corporation for correction. If the report is corrected to  
7 contain the information required by this section and delivered to the  
8 ~~secretary of state~~ **department** within thirty (30) days after the effective  
9 date of notice, the report is considered to be timely filed.

10 (f) The ~~secretary of state~~ **department** may mail the annual report  
11 form to an address shown for the corporation on the last annual report  
12 filed with the ~~secretary of state~~ **department**. The failure of the  
13 corporation to receive the annual report form from the ~~secretary of state~~  
14 **department** does not relieve the corporation of the corporation's duty  
15 to deliver an annual report to the office as required by this section.

16 (g) A domestic or foreign corporation may deliver to the ~~secretary~~  
17 ~~of state~~ **department** for filing an amendment to the annual report if a  
18 change in the information set forth in the annual report occurs after the  
19 report is delivered to the ~~secretary of state's office~~ **department** for  
20 filing and before the next due date. This subsection applies only to a  
21 change that is not required to be made by an amendment to the articles  
22 of incorporation. The amendment to the annual report must set forth the  
23 following:

24 (1) The name of the corporation as shown on the ~~department's~~  
25 records. ~~of the secretary of state's office~~.

26 (2) The information as changed.

27 SECTION 277. IC 23-17-29-1 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) To be  
29 entitled to be filed by the ~~secretary of state~~ **department** under this  
30 article, a document must meet the following conditions:

31 (1) Be filed ~~in with~~ the ~~office of the secretary of state~~.  
32 **department**.

33 (2) Contain the information required by this article.

34 (3) Be typewritten or printed.

35 (4) Be legible.

36 (5) Be in English. However, a corporate name need not be in  
37 English if written in English letters or Arabic or Roman numerals,  
38 and the certificate of existence required of foreign corporations  
39 need not be in English if accompanied by a reasonably  
40 authenticated English translation.

41 (6) Be executed:

42 (A) by the presiding officer of the board of directors of a

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- 1 domestic or foreign corporation, the corporation's president, or  
 2 by another of the corporation's officers;  
 3 (B) if directors have not been selected or the corporation has  
 4 not been formed, by an incorporator; or  
 5 (C) if the corporation is in the hands of a receiver, trustee, or  
 6 other court appointed fiduciary, by the fiduciary.
- 7 (7) Be signed by the person executing the document and state  
 8 beneath or opposite the person's signature name the capacity in  
 9 which the person signs. A signature on a document authorized to  
 10 be filed under this article may be a facsimile.
- 11 (b) A document may contain the following:
- 12 (1) A corporate seal.  
 13 (2) An attestation by a secretary or an assistant secretary.  
 14 (3) An ~~acknowledgement~~, **acknowledgment**, a verification, or a  
 15 proof.
- 16 (c) If the ~~secretary of state~~ **department** has prescribed a mandatory  
 17 form for a document under section 2 of this chapter, the document must  
 18 be in or on the prescribed form.
- 19 (d) A document must be delivered to the ~~office of the secretary of~~  
 20 **state department** for filing as described in section 1.1 of this chapter  
 21 and must be accompanied by the correct filing fee. The filing fee must  
 22 be paid in the manner and form required by the ~~secretary of state~~  
 23 **department**.
- 24 (e) The ~~secretary of state~~ **department** may accept payment of the  
 25 correct filing fee by credit card, debit card, charge card, or similar  
 26 method. However, if the filing fee is paid by credit card, debit card,  
 27 charge card, or similar method, the liability is not finally discharged  
 28 until the ~~secretary of state~~ **department** receives payment or credit from  
 29 the institution responsible for making the payment or credit. The  
 30 ~~secretary of state~~ **department** may contract with a bank or credit card  
 31 vendor for acceptance of bank or credit cards. However, if there is a  
 32 vendor transaction charge or discount fee, whether billed to the  
 33 ~~secretary of state~~ **department** or charged directly to the ~~secretary of~~  
 34 **state's department's** account, the ~~secretary of state~~ **department** or the  
 35 credit card vendor may collect from the person using the bank or credit  
 36 card a fee that may not exceed the highest transaction charge or  
 37 discount fee charged to the ~~secretary of state~~ **department** by the bank  
 38 or credit card vendor during the most recent collection period. This fee  
 39 may be collected regardless of any agreement between the bank and a  
 40 credit card vendor or regardless of any internal policy of the credit card  
 41 vendor that may prohibit this type of fee. The fee is a permitted  
 42 additional charge under IC 24-4.5-3-202.

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SECTION 278. IC 23-17-29-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1.1. (a) For purposes of this article, a document is delivered for filing if the document is transferred to the ~~secretary of state~~ **department** by hand, mail, telecopy, facsimile, or other form of electronic transmission meeting the requirements established by the ~~secretary of state~~ **department**.

(b) If a document is delivered for filing by hand or mail, the document must be accompanied by:

(1) two (2) exact or conformed copies of a document filed under IC 23-17-6-3 or IC 23-17-26-9; or

(2) one (1) exact or conformed copy of any other document filed under this article.

(c) The ~~office of the secretary of state~~ **department** shall create any copies of a document delivered by telecopy, facsimile, or other form of electronic transmission that are required for distribution under this article.

SECTION 279. IC 23-17-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) The ~~secretary of state~~ **department** may prescribe and furnish, on request, forms for the following:

(1) A foreign corporation's application for a certificate of authority to transact business in Indiana.

(2) A foreign corporation's application for a certificate of withdrawal.

(3) The annual report.

(b) If the ~~secretary of state~~ **department** requires, use of the forms described in subsection (a) is mandatory.

(c) The ~~secretary of state~~ **department** may prescribe and furnish on request forms for other documents required or permitted to be filed by this article but the use of forms for other documents is not mandatory.

SECTION 280. IC 23-17-29-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) The ~~secretary of state~~ **department** shall collect the following fees when the following documents are delivered for filing:

	DOCUMENT	FEE
(1)	Articles of Incorporation	\$30
(2)	Application for use of indistinguishable name	\$20
(3)	Application for reserved name	\$20
(4)	Notice of transfer of reserved name	\$20
(5)	Application for registered name	\$30



1	(6)	Application for renewal of	
2		registered name	\$30
3	(7)	Corporation's statement of change	
4		of registered agent or registered	
5		office or both	no fee
6	(8)	Agent's statement of change of	
7		registered office for each	
8		affected corporation	no fee
9	(9)	Agent's statement of resignation	no fee
10	(10)	Amendment of articles of	
11		incorporation	\$30
12	(11)	Restatement of articles of	
13		incorporation with amendments	\$30
14	(12)	Articles of merger	\$30
15	(13)	Articles of dissolution	\$30
16	(14)	Articles of revocation of	
17		dissolution	\$30
18	(15)	Certificate of administrative	
19		dissolution	no fee
20	(16)	Application for reinstatement	
21		following administrative	
22		dissolution	\$30
23	(17)	Certificate of reinstatement	no fee
24	(18)	Certificate of judicial dissolution	no fee
25	(19)	Application for certificate of	
26		authority	\$30
27	(20)	Application for amended certificate	
28		of authority	\$30
29	(21)	Application for certificate of	
30		withdrawal	\$30
31	(22)	Certificate of revocation of	
32		authority to transact business	no fee
33	(23)	Annual report	\$10
34	(24)	Articles of correction	\$30
35	(25)	Certificate of existence	\$15
36	(26)	Any other document required or	
37		permitted to be filed by this	
38		article	\$30

(b) The ~~secretary of state~~ **attorney general** shall collect a fee of ten dollars (\$10) upon being served with process under this article. The party to a proceeding causing service of process may recover the fee paid the ~~secretary of state~~ **attorney general** as costs if the party



prevails in the proceeding.

(c) The **secretary of state department** shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(1) One dollar (\$1) a page for copying.

(2) Fifteen dollars (\$15) for the certification stamp.

SECTION 281. IC 23-17-29-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) A domestic or foreign corporation may correct a document filed by the **secretary of state department** if the document:

(1) contains an incorrect statement; or

(2) was defectively executed, attested, sealed, verified, or acknowledged.

(b) A document is corrected:

(1) by preparing articles of correction that:

(A) describe the document, including the document's filing date, or attaching a copy of the document to the articles of correction;

(B) specify the incorrect statement and the reason the statement is incorrect or the manner in which the execution was defective; and

(C) correct the incorrect statement or defective execution; and

(2) by delivering the articles of correction to the **secretary of state department**.

(c) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed or when the reliance ceased to be reasonable, whichever first occurs.

SECTION 282. IC 23-17-29-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) If a document delivered to the office of the **secretary of state department** for filing satisfies the requirements of section 1 of this chapter, the **secretary of state department** shall file the document.

(b) The **secretary of state department** shall file a document by stamping or otherwise endorsing the word "FILED" on the document ~~together with the secretary of state's name and official title~~ and the date and the time of receipt, on both the original and copy of the document and on the receipt for the filing fee. After filing a document, except as provided under IC 23-17-6-3 and IC 23-17-26-9, the **secretary of state department** shall deliver the document copy, with the filing fee receipt or ~~acknowledgement~~ **acknowledgment** of receipt if no fee is required

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1 attached, to the domestic or foreign corporation or the corporation's  
2 representative.

3 (c) Upon refusing to file a document, the ~~secretary of state~~  
4 **department** shall return the document to the domestic or foreign  
5 corporation or the corporation's representative within ten (10) days  
6 after the document was delivered, together with a brief, written  
7 explanation of the reason for the refusal.

8 (d) The ~~secretary of state's~~ **department's** duty to file documents  
9 under this section is ministerial. Filing or refusal to file a document  
10 does not do any of the following:

11 (1) Affect the validity or invalidity of the document in whole or  
12 in part.

13 (2) Relate to the correctness or incorrectness of information  
14 contained in the document.

15 (3) Create a presumption that the document is valid or invalid or  
16 that information contained in the document is correct or incorrect.

17 SECTION 283. IC 23-17-29-7 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) If the  
19 ~~secretary of state~~ **department** refuses to file a document delivered for  
20 filing to the ~~secretary of state~~, **department**, a domestic or foreign  
21 corporation may appeal the refusal to the circuit court or superior court  
22 in the county where the corporation's principal office, or, if there is  
23 none in Indiana, the corporation's registered office, is or will be located.  
24 The appeal is commenced by petitioning the court to compel filing the  
25 document and by attaching to the petition the document and the  
26 ~~secretary of state's~~ **department's** explanation of the refusal to file.

27 (b) The court may summarily order the ~~secretary of state~~  
28 **department** to file the document or take other action the court  
29 considers appropriate.

30 (c) The court's final decision may be appealed as in other civil  
31 proceedings.

32 SECTION 284. IC 23-17-29-8 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. A certification  
34 stamp affixed on or a certification certificate attached to a copy of a  
35 document under this chapter, bearing the ~~secretary of state's signature,~~  
36 ~~which may be in facsimile,~~ and the seal of Indiana, is conclusive  
37 evidence that the original document is on file with the ~~secretary of~~  
38 ~~state.~~ **department.**

39 SECTION 285. IC 23-17-29-9 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) A person  
41 may request the ~~secretary of state~~ **department** to furnish a certificate  
42 of existence for a domestic or foreign corporation.

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(b) The certificate of existence sets forth the following:

(1) The domestic corporation's corporate name or the foreign corporation's corporate name used in Indiana.

(2) That:

(A) the domestic corporation is duly incorporated under Indiana law, the date of the corporation's incorporation, and the period of the corporation's duration if less than perpetual; or

(B) the foreign corporation is authorized to transact business in Indiana.

(3) That all fees, taxes, and penalties owed to this state have been paid, if:

(A) payment is reflected in the **department's** records; ~~of the secretary of state;~~ and

(B) nonpayment affects the existence of authorization of the domestic or foreign corporation.

(4) That the corporation's most recent annual report required under IC 23-17-27-8 has been delivered to the ~~secretary of state-~~ **department.**

(5) That articles of dissolution have not been filed.

(6) Other facts of record ~~in with the office of the secretary of state~~ **department** that may be requested by the applicant.

(c) Subject to any qualification stated in the certificate, a certificate of existence issued by the ~~secretary of state~~ **department** may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in Indiana.

SECTION 286. IC 23-17-29-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. (a) A person commits an offense by signing a document the person knows is false in any material respect with intent that the document be delivered to the ~~secretary of state~~ **department** for filing.

(b) An offense under this section is a Class A misdemeanor.

SECTION 287. IC 23-17-30-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. The ~~secretary of state~~ **department** has the power reasonably necessary to perform the duties required of the ~~secretary of state's office~~ **department** by this article.

SECTION 288. IC 23-18-1-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 6.5. "Department" refers to the department of commerce created by IC 4-3-2-2.**

SECTION 289. IC 23-18-2-4 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) At least one  
 2 (1) person may form a limited liability company by causing articles of  
 3 organization to be executed and filed for record with the ~~office of the~~  
 4 ~~secretary of state; department.~~ A person does not need to be a member  
 5 of the limited liability company at the time of formation or after  
 6 formation has occurred.

7 (b) Articles of organization shall contain the following:

8 (1) The name of the limited liability company.

9 (2) The street address of the limited liability company's registered  
 10 office in Indiana and the name of the limited liability company's  
 11 registered agent at that office.

12 (3) The latest date upon which the limited liability company is to  
 13 dissolve, or a statement that the duration of the limited liability  
 14 company is perpetual until dissolution in accordance with this  
 15 article.

16 (4) If the articles of organization provide for a manager or  
 17 managers, a statement to that effect.

18 (5) Any other matters not inconsistent with this article that the  
 19 members agree to include, including any matters that are required  
 20 to be or may be included in an operating agreement under this  
 21 article.

22 SECTION 290. IC 23-18-2-5 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) Articles of  
 24 organization of a limited liability company may be amended by filing  
 25 articles of amendment of the articles of organization ~~in with the office~~  
 26 ~~of the secretary of state; department.~~ The articles of amendment must  
 27 contain the following:

28 (1) The name of the limited liability company.

29 (2) The date the articles of organization were filed.

30 (3) The amendment to the articles of organization.

31 (b) Articles of organization of a limited liability company may be  
 32 amended at any time that the members determine provided that the  
 33 articles of organization as amended contain only provisions that may  
 34 be lawfully contained in articles of organization at the time the  
 35 amendment is made.

36 SECTION 291. IC 23-18-2-6 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) Articles of  
 38 organization may be restated at any time. Restated articles of  
 39 organization must:

40 (1) be filed with the ~~secretary of state; department;~~

41 (2) be specifically designated as "restated articles of  
 42 organization"; and



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(3) state in the heading or in a separate paragraph the limited liability company's present name, and if the name has been changed, all of its former names and the date of filing of its original articles of organization.

(b) A restated articles of organization may include one (1) or more amendments to the articles of organization. If the restated articles of organization include an amendment, the amendment must be adopted as provided in section 5 of this chapter.

SECTION 292. IC 23-18-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. The fact that articles of organization of a limited liability company are on file ~~in~~ **with the office of the secretary of state department** is notice that the limited liability company has been organized and is notice of all other facts that are required to be set forth in the articles of organization under section 4 of this chapter and that are set forth in the articles of organization.

SECTION 293. IC 23-18-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) The name of each limited liability company as set forth in its articles of organization:

(1) must contain the words "limited liability company" or either of the following abbreviations:

(A) "L.L.C."; or

(B) "LLC";

(2) may contain the name of a member or manager; and

(3) except as provided in subsection (b), must be such as to distinguish the name upon the records of the ~~office of the secretary of state department~~ from the name of any limited liability company reserved, registered, or organized under the laws of Indiana or qualified to transact business as a foreign limited liability company in Indiana.

(b) A limited liability company may apply to the ~~secretary of state department~~ to use a name that is not distinguishable upon the ~~secretary of state's department's~~ records from one (1) or more of the names described in subsection (a). The ~~secretary of state department~~ shall authorize the use of the name applied for if:

(1) the other domestic or foreign limited liability company files its written consent to the use of its name; or

(2) the applicant delivers to the ~~secretary of state department~~ a certified copy of a final court judgment from a circuit or superior court in the state of Indiana establishing the applicant's right to use the name applied for in Indiana.



1 SECTION 294. IC 23-18-2-9 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) The  
 3 exclusive right to use a name for a limited liability company may be  
 4 reserved by the following:

5 (1) A person intending to organize a domestic limited liability  
 6 company under this article and to adopt that name.

7 (2) A domestic limited liability company or any foreign limited  
 8 liability company registered in Indiana that, in either case, intends  
 9 to change its name to that name.

10 (3) A foreign limited liability company intending to register in  
 11 Indiana and use that name in Indiana.

12 (4) A person intending to organize a foreign limited liability  
 13 company and intending to have it registered in Indiana and use  
 14 that name in Indiana.

15 (b) An applicant may reserve a specified name by filing with the  
 16 ~~secretary of state~~ **department** an application executed by the applicant  
 17 specifying the name to be reserved and the name and the address of the  
 18 applicant. If the ~~secretary of state~~ **department** finds that the name is  
 19 available for use by the applicant, the ~~secretary of state~~ **department**  
 20 shall reserve the name for the exclusive use of the applicant for a  
 21 period of one hundred twenty (120) days. After reserving a name, the  
 22 same applicant may reserve the same name for successive periods of  
 23 one hundred twenty (120) days.

24 (c) The exclusive right to use a reserved name may be transferred  
 25 to another person by filing ~~in with the office of the secretary of state~~  
 26 **department** a notice of the transfer, executed by the applicant who  
 27 reserved the name, specifying the name to be transferred and the name  
 28 and address of the transferee.

29 SECTION 295. IC 23-18-2-11 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 11. (a) A limited  
 31 liability company may change its registered office or registered agent  
 32 by delivering to the ~~secretary of state~~ **department** for filing a statement  
 33 of change that sets forth the following:

34 (1) The name of the limited liability company.

35 (2) The street address of its current registered office.

36 (3) If the current registered office is to be changed, the street  
 37 address of the new registered office.

38 (4) The name of its current registered agent.

39 (5) If the current registered agent is to be changed, the name of  
 40 the new registered agent and the new registered agent's written  
 41 consent or a representation that the new registered agent has  
 42 consented either on the statement or attached to the statement to



the appointment.

(6) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(b) If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any limited liability company that the registered agent serves by notifying the limited liability company in writing of the change and signing either manually or in facsimile and delivering to the **secretary of state department** for filing a statement that complies with the requirements of subsection (a) and states that the limited liability company has been notified of the change.

SECTION 296. IC 23-18-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. (a) A registered agent may resign the agency appointment by signing and delivering to the **secretary of state department** for filing as described in IC 23-18-12 a statement of resignation. The statement may include a statement that the registered office is also discontinued.

(b) After filing the statement, the **secretary of state department** shall mail one (1) copy to the limited liability company at the limited liability company's principal office and one (1) copy to the registered office, if not discontinued.

(c) The agency appointment is terminated and the registered office discontinued, if discontinued under the statement, thirty-one (31) days after the statement was filed.

SECTION 297. IC 23-18-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) After a plan of merger is approved, the surviving limited liability company shall deliver to the **secretary of state department** for filing articles of merger setting forth the following:

(1) The name and jurisdiction of organization of each limited liability company that is a party to merger.

(2) The plan of merger.

(3) A statement that the plan of merger was approved by each limited liability company as required by the laws of the state of its organization.

(b) Unless a delayed effective date is specified, a merger takes effect when the articles of merger are filed.

(c) The surviving limited liability company resulting from a merger may, after the merger has become effective, file for record with the county recorder of each county where the limited liability company has real property at the time of the merger, the title that will be transferred



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1 by the merger, a file-stamped copy of the articles of merger. If the plan  
 2 of merger sets forth amendments to the articles of organization that  
 3 change the name of the surviving limited liability company, a  
 4 file-stamped copy of the articles of merger may be filed for record with  
 5 the county recorder of each county where the surviving limited liability  
 6 company has real property at the time the merger becomes effective. A  
 7 failure to record a copy of the articles of merger under this subsection  
 8 does not affect the validity of the merger or the change in the limited  
 9 liability company's name.

10 (d) Articles of merger are articles of dissolution for each domestic  
 11 limited liability company that is not the surviving limited liability  
 12 company in the merger.

13 SECTION 298. IC 23-18-7-6 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) A foreign  
 15 limited liability company may participate in a merger with a domestic  
 16 limited liability company if the following conditions are satisfied:

17 (1) The merger is permitted by the laws of the jurisdiction under  
 18 whose laws the foreign limited liability company is organized and  
 19 the foreign limited liability company complies with the laws in  
 20 effecting the merger.

21 (2) The foreign limited liability company complies with section  
 22 4 of this chapter if it is the surviving limited liability company of  
 23 the merger.

24 (3) Each domestic limited liability company complies with the  
 25 applicable provisions of sections 1 through 3 of this chapter and,  
 26 if it is the surviving limited liability company of the merger, with  
 27 section 4 of this chapter.

28 (b) Upon the merger taking effect, the surviving foreign limited  
 29 liability company agrees to the following:

30 (1) That it may be served with process in Indiana in any  
 31 proceeding for enforcement of any obligation of any limited  
 32 liability company to the merger that was organized under Indiana  
 33 law, and for enforcement of any obligation of the surviving  
 34 limited liability company arising from the merger.

35 (2) That the surviving foreign limited liability company appoints  
 36 the ~~secretary of state~~ **attorney general** as its agent for service of  
 37 process in any such proceeding, and the surviving limited liability  
 38 company shall specify the address to which a copy of the process  
 39 shall be mailed by the ~~secretary of state~~ **attorney general**.

40 SECTION 299. IC 23-18-7-7 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) Unless the  
 42 plan of merger precludes the right to abandon the merger, a proposed

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merger may be abandoned before the effective date of the articles of merger, unless provided otherwise in the operating agreement, by the affirmative vote, approval, or consent of a majority in interest of the members of each limited liability company that is party to the merger.

(b) If the articles of merger have been filed with the ~~secretary of state~~, **department**, notice of the abandonment must be given promptly to the ~~secretary of state~~, **department**.

(c) If the proposed merger is abandoned as provided in this section, no liability arises under the articles of merger.

(d) An abandonment does not prejudice the rights of a person under any other contract made by a limited liability company that is a party to the merger in connection with the proposed merger.

SECTION 300. IC 23-18-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. The ~~secretary of state~~ **department** shall prepare certificates of merger that specify the following:

- (1) The name of each party to the articles of merger.
- (2) The name of the successor and the location of the successor's registered office in Indiana.
- (3) The date the articles of merger are accepted for record by the ~~secretary of state~~, **department**.

SECTION 301. IC 23-18-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. At any time after a limited liability company dissolves, the limited liability company may deliver to the ~~secretary of state~~ **department** for filing articles of dissolution setting forth the following:

- (1) The name of the limited liability company.
- (2) The date of filing of the articles of organization.
- (3) The address of the principal office of the limited liability company.
- (4) The date dissolution occurred.
- (5) Other information the members or managers filing the articles determine.

SECTION 302. IC 23-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. The ~~secretary of state~~ **department** may commence a proceeding under section 2 of this chapter to administratively dissolve a limited liability company if:

- (1) the limited liability company does not deliver its biennial report to the ~~secretary of state~~ **department** not more than sixty (60) days after the biennial report is due;
- (2) the limited liability company is without a registered agent or registered office in Indiana for at least sixty (60) days;



- (3) the limited liability company does not notify the ~~secretary of state~~ **department** not more than sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued; or
- (4) the period of duration stated in the limited liability company's articles of organization expires.

SECTION 303. IC 23-18-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) If the ~~secretary of state~~ **department** determines that one (1) or more grounds exist under section 1 of this chapter for dissolving a limited liability company, the ~~secretary of state~~ **department** shall serve the limited liability company with written notice of the determination under IC 23-18-2-13.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the ~~secretary of state~~ **department** that each ground determined by the ~~secretary of state~~ **department** does not exist not more than sixty (60) days after service of the notice is perfected under IC 23-18-2-13, the ~~secretary of state~~ **department** shall administratively dissolve the limited liability company by ~~signing~~ **issuing** a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The ~~secretary of state~~ **department** shall file the original of the certificate and serve a copy on the limited liability company under IC 23-18-2-13.

SECTION 304. IC 23-18-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) A limited liability company administratively dissolved under section 2 of this chapter may apply to the ~~secretary of state~~ **department** for reinstatement. The application must:

- (1) state the name of the limited liability company and the effective date of its administrative dissolution;
- (2) state that the ground or grounds for dissolution either did not exist or have been eliminated;
- (3) state that the limited liability company's name satisfies the requirements under IC 23-18-2-9; and
- (4) contain a certificate from the department of state revenue stating that all taxes owed by the limited liability company have been paid.

(b) If the ~~secretary of state~~ **department** determines that the application contains the information required by subsection (a) and that the information is correct, the ~~secretary of state~~ **department** shall:

- (1) cancel the certificate of dissolution and prepare a certificate





1 of reinstatement that states the determination and the effective  
2 date of reinstatement;

3 (2) file the original of the certificate; and

4 (3) serve a copy on the limited liability company.

5 (c) When the reinstatement is effective, the reinstatement relates  
6 back to and takes effect as of the effective date of the administrative  
7 dissolution, and the limited liability company resumes carrying on  
8 business as if the administrative dissolution had never occurred.

9 SECTION 305. IC 23-18-10-5 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) If the  
11 ~~secretary of state department~~ denies a limited liability company's  
12 application for reinstatement following administrative dissolution, the  
13 ~~secretary of state department~~ shall serve the limited liability company  
14 under IC 23-18-2-13 with a written notice that explains the reason or  
15 reasons for denial.

16 (b) The limited liability company may appeal the denial of  
17 reinstatement to the circuit or superior court of the county where the  
18 limited liability company's principal office, or if there is none in  
19 Indiana its registered office, is located not more than thirty (30) days  
20 after service of the notice of denial by doing the following:

21 (1) Filing a petition with the court to set aside the dissolution.

22 (2) Attaching to the petition a copy of the ~~secretary of state's~~  
23 ~~department's~~ certificate of dissolution, the limited liability  
24 company's application for reinstatement, and the ~~secretary of~~  
25 ~~state's department's~~ notice of denial.

26 (c) The court may order the ~~secretary of state department~~ to  
27 reinstate the dissolved limited liability company or may take other  
28 action the court considers appropriate.

29 (d) The court's final decision may be appealed as in other civil  
30 proceedings.

31 SECTION 306. IC 23-18-11-2 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) A foreign  
33 limited liability company may not transact business in Indiana until it  
34 obtains a certificate of authority from the ~~secretary of state:~~  
35 ~~department.~~

36 (b) Activities that do not constitute transacting business within the  
37 meaning of subsection (a) include the following:

38 (1) Maintaining, defending, or settling a proceeding.

39 (2) Holding meetings of the managers or members or carrying on  
40 other activities concerning internal affairs.

41 (3) Maintaining bank accounts.

42 (4) Maintaining offices or agencies for the transfer, exchange, and

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1 registration of the limited liability company's interests or other  
 2 securities or maintaining trustees or depositaries with respect to  
 3 those securities.

4 (5) Selling through independent contractors.

5 (6) Soliciting or obtaining orders, including those by mail or  
 6 through employees or agents if the orders require acceptance  
 7 outside Indiana before the orders become contracts.

8 (7) Making loans or creating or acquiring indebtedness,  
 9 mortgages, and security interests in real or personal property.

10 (8) Securing or collecting debts or enforcing mortgages and  
 11 security interests in property securing the debts.

12 (9) Owning real or personal property.

13 (10) Conducting an isolated transaction that is completed within  
 14 thirty (30) days and that is not in the course of repeated  
 15 transactions of a like nature.

16 (11) Transacting business in interstate commerce.

17 (c) The list of activities in subsection (b) is not exhaustive.

18 SECTION 307. IC 23-18-11-4 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) A foreign  
 20 limited liability company may apply for a certificate of authority to  
 21 transact business in Indiana by delivering an application to the  
 22 **secretary of state department** for filing. The application must set forth  
 23 the following:

24 (1) The name of the foreign limited liability company, or if its  
 25 name is unavailable for use in Indiana, a name that satisfies the  
 26 requirements of section 7 of this chapter.

27 (2) The name of the state or country under whose law it is  
 28 organized.

29 (3) The date of its organization and the latest date, if any, upon  
 30 which it is to dissolve.

31 (4) The street address of its principal office.

32 (5) The address of its registered office in Indiana and the name of  
 33 its registered agent at that office.

34 (6) If the organizational documents of the foreign limited liability  
 35 company provide for a manager or managers, a statement to that  
 36 effect.

37 (b) The foreign limited liability company must deliver, with the  
 38 completed application, a certificate of existence or a similar document  
 39 authenticated by the **secretary of state department** or other official  
 40 having custody of business records of the foreign limited liability  
 41 company in the state or country where the foreign limited liability  
 42 company was organized.



1 SECTION 308. IC 23-18-11-5 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) A foreign  
 3 limited liability company authorized to transact business in Indiana  
 4 must obtain an amended certificate of authority from the ~~secretary of~~  
 5 **state department** if it changes any of the following:

- 6 (1) Its name.
- 7 (2) The latest date, if any, upon which it is to dissolve.
- 8 (3) The state or country of its organization.

9 (b) The requirements of section 4 of this chapter for obtaining an  
 10 original certificate of authority apply to obtaining an amended  
 11 certificate under this section.

12 SECTION 309. IC 23-18-11-7 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) If the name  
 14 of a foreign limited liability company does not satisfy the requirements  
 15 under IC 23-18-2-8, the foreign limited liability company, to obtain or  
 16 maintain a certificate of authority to transact business in Indiana:

- 17 (1) may add the words "limited liability company" or the
- 18 abbreviations "L.L.C." or "LLC" to its name for use in Indiana; or
- 19 (2) may use a fictitious name to transact business in Indiana if the
- 20 company's real name is unavailable.

21 (b) Except as authorized by subsections (c) and (d), the limited  
 22 liability company name, including a fictitious name, of a foreign  
 23 limited liability company must be distinguishable upon the  
 24 **department's records of the secretary of state** from the following:

- 25 (1) The name of a limited liability company organized or
- 26 authorized to transact business in Indiana.
- 27 (2) A name reserved under IC 23-18-2-9.
- 28 (3) The fictitious name of another foreign limited liability
- 29 company authorized to transact business in Indiana.

30 (c) A foreign limited liability company may apply to the ~~secretary~~  
 31 **of state department** for authorization to use in Indiana the name of  
 32 another limited liability company organized or authorized to transact  
 33 business in Indiana that is not distinguishable from the name applied  
 34 for. The ~~secretary of state~~ **department** must authorize use of the name  
 35 applied for if:

- 36 (1) the other limited liability company consents to the use in
- 37 writing and submits an undertaking in a form satisfactory to the
- 38 **secretary of state department** to change its name to a name that
- 39 is distinguishable upon the **department's records of the secretary**
- 40 **of state** from the name of the applying limited liability company;
- 41 or
- 42 (2) the applicant delivers to the ~~secretary of state~~ **department a**



certified copy of a final judgment of a circuit or superior court establishing the applicant's right to use the name applied for in Indiana.

(d) A foreign limited liability company may use in Indiana the name, including the fictitious name, of another domestic or foreign limited liability company that is used in Indiana if the other limited liability company is organized or authorized to transact business in Indiana and the foreign limited liability company:

- (1) has merged with the other limited liability company;
- (2) has been formed by reorganization of the other limited liability company; or
- (3) has acquired all or substantially all of the assets, including the name, of the other limited liability company.

(e) If a foreign limited liability company authorized to transact business in Indiana changes its name to a name that does not satisfy the requirements under IC 23-18-2-8, it may not transact business in Indiana under the changed name until it adopts a name satisfying the requirements and obtains an amended certificate of authority under section 5 of this chapter.

SECTION 310. IC 23-18-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) A foreign limited liability company authorized to transact business in Indiana may change its registered office or registered agent by delivering to the **secretary of state department** for filing a statement of change that sets forth the following:

- (1) Its name.
- (2) The street address of its current registered office.
- (3) If the current registered office is to be changed, the street address of its new registered office.
- (4) The name of its current registered agent.
- (5) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent or a representation that the new registered agent has consented to the change either on the statement or attached it to the appointment.
- (6) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(b) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any foreign limited liability company that the registered agent serves by notifying the limited liability company in writing of the change and signing either manually or in facsimile and

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1 delivering to the ~~secretary of state~~ for filing, a statement of change that  
 2 complies with the requirements of subsection (a) and states that the  
 3 limited liability company has been notified of the change.

4 SECTION 311. IC 23-18-11-10 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. (a) The  
 6 registered agent of a foreign limited liability company may resign the  
 7 agency appointment by signing and delivering to the ~~secretary of state~~  
 8 **department** for filing as described in IC 23-18-12 a statement of  
 9 resignation. The statement of resignation may include a statement that  
 10 the registered office is also discontinued.

11 (b) After filing the statement, the ~~secretary of state~~ **department**  
 12 shall attach the filing receipt to one (1) copy and mail the copy and  
 13 receipt to the registered office, if the registered office is not  
 14 discontinued. The ~~secretary of state~~ **department** shall mail one (1)  
 15 copy to the foreign limited liability company at its principal office  
 16 address shown on the ~~department's~~ records. ~~of the secretary of state.~~

17 (c) The agency appointment is terminated, and the registered office  
 18 is discontinued if so provided, thirty-one (31) days after the statement  
 19 is filed.

20 SECTION 312. IC 23-18-11-11 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 11. (a) The  
 22 registered agent of a foreign limited liability company authorized to  
 23 transact business in Indiana is the limited liability company's agent for  
 24 service of process, notice, or demand required or permitted by law to  
 25 be served on the foreign limited liability company.

26 (b) A foreign limited liability company may be served by registered  
 27 or certified mail, return receipt requested, addressed to the foreign  
 28 limited liability company at its principal office shown in its application  
 29 for a certificate of authority or as shown on the ~~department's~~ records  
 30 ~~of the secretary of state~~ if at least one (1) of the following conditions  
 31 apply to the foreign limited liability company:

- 32 (1) It does not have a registered agent or its registered agent  
 33 cannot with reasonable diligence be served.
- 34 (2) It has withdrawn from transacting business in Indiana under  
 35 section 13 of this chapter.
- 36 (3) Its certificate of authority was revoked under section 16 of this  
 37 chapter.

38 (c) Service is perfected under subsection (b) at the earliest of the  
 39 following:

- 40 (1) The date the foreign limited liability company receives the  
 41 mail.
- 42 (2) The date shown on the return receipt if signed on behalf of the

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foreign limited liability company.

(3) Five (5) days after deposit in the United States mail if mailed postpaid and correctly addressed.

(d) This section does not prescribe the only means, or necessarily the required means, of serving a foreign limited liability company.

SECTION 313. IC 23-18-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. A foreign limited liability company authorized to transact business in Indiana may not withdraw from Indiana until it obtains a certificate of withdrawal from the ~~secretary of state~~ **department**.

SECTION 314. IC 23-18-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13. A foreign limited liability company authorized to transact business in Indiana may apply for a certificate of withdrawal by delivering an application to the ~~secretary of state~~ **department** for filing. The application must set forth the following:

(1) The name of the foreign limited liability company and the name of the state or country under whose law it is organized.

(2) That it is not transacting business in Indiana and that it surrenders its authority to transact business in Indiana.

(3) That it revokes the authority of its registered agent to accept service on its behalf and appoints the ~~secretary of state~~ **attorney general** as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in Indiana.

(4) A mailing address to which the ~~secretary of state~~ **attorney general** may mail a copy of any process served on the ~~secretary of state~~ **attorney general** under ~~subsection subdivision~~ (3).

(5) A commitment to notify the ~~secretary of state~~ **department** in the future of any change in its mailing address.

SECTION 315. IC 23-18-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. After the withdrawal of the limited liability company is effective, service of process on the ~~secretary of state~~ **attorney general** under this chapter is service on the foreign limited liability company. Upon receipt of process, the ~~secretary of state~~ **attorney general** shall mail a copy of the process to the foreign limited liability company at the mailing address set forth in its application for withdrawal.

SECTION 316. IC 23-18-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. The ~~secretary of state~~ **department** may commence a proceeding under section 16 of this chapter to revoke the certificate of authority of a foreign limited



liability company authorized to transact business in Indiana if at least one (1) of the following applies:

(1) The foreign limited liability company does not deliver its biennial report to the **secretary of state department** within sixty (60) days after the biennial report is due.

(2) The foreign limited liability company is without a registered agent or registered office in Indiana for at least sixty (60) days.

(3) The foreign limited liability company does not inform the **secretary of state department** under section 9 or 10 of this chapter that its:

(A) registered agent or registered office has changed;

(B) registered agent has resigned; or

(C) registered office has been discontinued;

within sixty (60) days of the change, resignation, or discontinuance.

(4) A member, a manager, or an agent of the foreign limited liability company signed a document the member, manager, or agent knew was false in a material respect with the intent that the document be delivered to the **secretary of state department** for filing.

(5) The **secretary of state department** receives an authenticated certificate from the secretary of state or other official having custody of business entity records in the state or country under whose laws the foreign limited liability company is organized stating that it has dissolved or disappeared as the result of a merger.

SECTION 317. IC 23-18-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 16. (a) If the **secretary of state department** determines that one (1) or more grounds exist under section 15 of this chapter for revocation of a certificate of authority, the **secretary of state department** shall, under section 11 of this chapter, serve the foreign limited liability company with written notice of the determination.

(b) If the foreign limited liability company does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the **secretary of state department** that each ground determined by the **secretary of state department** does not exist not more than sixty (60) days after service of the notice is perfected under section 11 of this chapter, the **secretary of state department** may revoke the foreign limited liability company's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The **secretary of state department**



1 shall file the original of the certificate and serve a copy on the foreign  
2 limited liability company under section 11 of this chapter.

3 (c) The authority of a foreign limited liability company to transact  
4 business in Indiana ceases on the date shown on the certificate  
5 revoking the certificate of authority.

6 (d) The ~~secretary of state's~~ **department's** revocation of a foreign  
7 limited liability company's certificate of authority appoints the  
8 ~~secretary of state~~ **attorney general** the foreign limited liability  
9 company's agent for service of process in a proceeding based on a  
10 cause of action that arose during the time the foreign limited liability  
11 company was authorized to transact business in Indiana. Service of  
12 process on the ~~secretary of state~~ **attorney general** under this  
13 subsection is service on the foreign limited liability company. Upon  
14 receipt of process, the ~~secretary of state~~ **attorney general** shall mail a  
15 copy of the process to the foreign limited liability company at its  
16 principal office shown in the most recent communication received from  
17 the corporation stating the current mailing address of its principal  
18 office or, if it is not on file, in its application for a certificate of  
19 authority.

20 (e) Revocation of a foreign limited liability company's certificate of  
21 authority does not terminate the authority of the registered agent of the  
22 limited liability company.

23 SECTION 318. IC 23-18-11-17 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. (a) A foreign  
25 limited liability company may appeal the ~~secretary of state's~~  
26 **department's** revocation of its certificate of authority to the circuit or  
27 superior court of the county where the foreign limited liability  
28 company's registered office is located not more than thirty (30) days  
29 after service of the certificate of revocation is perfected under section  
30 11 of this chapter by doing the following:

31 (1) Filing a petition with the court to set aside the revocation.

32 (2) Attaching to the petition copies of its certificate of authority  
33 and the ~~secretary of state's~~ **department's** certificate of revocation.

34 (b) The court may order the ~~secretary of state~~ **department** to  
35 reinstate the certificate of authority or may take other action the court  
36 considers appropriate.

37 (c) The court's final decision may be appealed as in other civil  
38 proceedings.

39 SECTION 319. IC 23-18-12-1 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A document  
41 required or permitted under this article may be filed with the ~~secretary~~  
42 ~~of state~~ **department** if the document meets the requirements under this

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article, including the following requirements:

(1) The document must contain the information required by this article, however, it may also contain additional information.

(2) The document must be typewritten or printed.

(3) The document must be legible.

(4) The document must be in the English language. A limited liability company's name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign limited liability companies need not be in English if accompanied by a reasonably authenticated English translation.

(5) The document must be executed:

(A) by a member or an agent designated by the limited liability company if the articles of organization do not provide for a manager or managers;

(B) by a manager or an agent designated by the limited liability company if the articles of organization do provide for a manager or managers; or

(C) if the limited liability company is in the hands of a receiver, trustee, or other court appointed fiduciary, by that fiduciary.

(6) The person executing the document must sign the document and state beneath or opposite the signature the person's name and the capacity in which the person signs. A signature on a document authorized to be filed under this article may be a facsimile.

(7) If the ~~secretary of state~~ **department** has prescribed a mandatory form for the document under section 2 of this chapter, the document must be in or on the prescribed form.

(8) The document must be delivered to the ~~secretary of state~~ **department** for filing and must be accompanied by the correct filing fee. The filing fee must be paid in the manner and form required by the ~~secretary of state~~ **department**.

(b) The ~~secretary of state~~ **department** may accept payment of the correct filing fee by credit card, debit card, charge card, or similar method. However, if the filing fee is paid by credit card, debit card, charge card, or similar method, the liability is not finally discharged until the ~~secretary of state~~ **department** receives payment or credit from the institution responsible for making the payment or credit. The ~~secretary of state~~ **department** may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the ~~secretary of state~~ **department** or charged directly to the ~~secretary of~~

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1 ~~state's department's~~ account, the ~~secretary of state~~ **department** or the  
 2 credit card vendor may collect from the person using the bank or credit  
 3 card a fee that may not exceed the highest transaction charge or  
 4 discount fee charged to the ~~secretary of state~~ **department** by the bank  
 5 or credit card vendor during the most recent collection period. This fee  
 6 may be collected regardless of any agreement between the bank and a  
 7 credit card vendor or regardless of any internal policy of the credit card  
 8 vendor that may prohibit this type of fee. The fee is a permitted  
 9 additional charge under IC 24-4.5-3-202.

10 SECTION 320. IC 23-18-12-1.1 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1.1. (a) For  
 12 purposes of this article, a document is delivered for filing if the  
 13 document is transferred to the ~~secretary of state~~ **department** by hand,  
 14 mail, telecopy, facsimile, or other form of electronic transmission  
 15 meeting the requirements established by the ~~secretary of state~~  
 16 **department**.

17 (b) If a document is delivered for filing by hand or mail, the  
 18 document must be accompanied by:

19 (1) two (2) exact or conformed copies of a document filed under  
 20 IC 23-18-2-12 or IC 23-18-11-10; or

21 (2) one (1) exact or conformed copy of any other document filed  
 22 under this article.

23 (c) The ~~office of the secretary of state~~ **department** shall create any  
 24 copies of a document delivered by telecopy, facsimile, or other form of  
 25 electronic transmission that are required for distribution under this  
 26 article.

27 SECTION 321. IC 23-18-12-2 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) The  
 29 ~~secretary of state~~ **department** may prescribe and furnish on request  
 30 forms for the following:

31 (1) Biennial report forms for domestic and foreign limited liability  
 32 companies.

33 (2) A foreign limited liability company's application for a  
 34 certificate of authority to transact business in Indiana.

35 (3) A foreign limited liability company's application for a  
 36 certificate of withdrawal.

37 If the ~~secretary of state~~ **department** requires and the form so states, use  
 38 of these forms is mandatory.

39 (b) The ~~secretary of state~~ **department** may prescribe and furnish on  
 40 request forms for other documents required or permitted to be filed by  
 41 this article, but their use is not mandatory.

42 SECTION 322. IC 23-18-12-3 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) The **secretary of state department** shall collect the following fees when the documents described in this section are delivered for filing:

Document	Fee
(1) Articles of organization . . . . .	\$90
(2) Application for use of indistinguishable name . . . . .	\$20
(3) Application for reservation of name . . . . .	\$20
(4) Application for renewal of reservation . . . . .	\$20
(5) Notice of transfer or cancellation of reservation . . . . .	\$20
(6) Certificate of change of registered agent's business address . . . . .	No Fee
(7) Certificate of resignation of agent . . . . .	No Fee
(8) Articles of amendment . . . . .	\$30
(9) Restatement of articles of organization . . . . .	\$30
(10) Articles of dissolution . . . . .	\$30
(11) Application for certificate of authority . . . . .	\$90
(12) Application for amended certificate of authority . . . . .	\$30
(13) Application for certificate of withdrawal . . . . .	\$30
(14) Application for reinstatement following administrative dissolution . . . . .	\$30
(15) Articles of correction . . . . .	\$30
(16) Certificate of change of registered agent . . . . .	No Fee
(17) Application for certificate of existence or authorization . . . . .	\$15
(18) Biennial report . . . . .	\$30
(19) Any other document required or permitted to be filed under this article . . . . .	\$30

(b) The fee set forth in subsection (a)(18) for filing a biennial report is fifteen dollars (\$15) per year, to be paid biennially.

(c) The **secretary of state attorney general** shall collect a fee of \$10 each time process is served on the **secretary of state attorney general** under this article. If the party to a proceeding causing service of process prevails in the proceeding, that party is entitled to recover this



1 fee as costs from the nonprevailing party.

2 (d) The **secretary of state department** shall collect the following  
3 fees for copying and certifying the copy of any filed documents relating  
4 to a domestic or foreign limited liability company:

5 (1) One dollar (\$1) per page for copying.

6 (2) Fifteen dollars (\$15) for certification stamp.

7 SECTION 323. IC 23-18-12-5 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) A domestic  
9 or foreign limited liability company may correct a document filed by  
10 the **secretary of state department** if the document:

11 (1) contains an incorrect statement; or

12 (2) was defectively executed.

13 (b) A document is corrected:

14 (1) by preparing articles of correction that:

15 (A) describe the document, including the filing date, or attach  
16 a copy of it to the articles;

17 (B) specifies the incorrect statement and the reason it is  
18 incorrect or the manner in which the execution was defective;  
19 and

20 (C) corrects the incorrect statement or defective execution; and

21 (2) by delivering the articles of correction to the **secretary of state**  
22 **department** for filing.

23 (c) Articles of correction are effective on the effective date of the  
24 document being corrected except as to persons reasonably relying on  
25 the uncorrected document and adversely affected by the correction. As  
26 to those persons, articles of correction are effective when filed or when  
27 the reliance ceases to be reasonable, whichever occurs first.

28 SECTION 324. IC 23-18-12-6 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) If a  
30 document delivered to the ~~office of the~~ **secretary of state department**  
31 for filing satisfies the requirements of section 1 of this chapter, the  
32 **secretary of state department** must file the document.

33 (b) The **secretary of state department** files a document by stamping  
34 or otherwise endorsing "Filed" ~~together with the secretary of state's~~  
35 ~~name and official title~~ and the date and time of receipt on both the  
36 original and the document copy and on the receipt for the filing fee.  
37 After filing a document, except as provided under IC 23-18-2-13 and  
38 IC 23-18-11-10, the **secretary of state department** shall deliver the  
39 document copy, with the filing fee receipt attached, or  
40 ~~acknowledgement~~ **acknowledgment** of receipt if no fee is required, to  
41 the domestic or foreign limited liability company or its representative.

42 (c) If the **secretary of state department** refuses to file a document,

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the **secretary of state department** shall return the document to the domestic or foreign limited liability company or its representative not more than ten (10) days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

(d) The **secretary of state's department's** duty to file documents under this section is ministerial. The **secretary of state's department's** filing or refusing to file a document does not:

- (1) affect the validity or invalidity of the document in whole or in part;
- (2) relate to the correctness or incorrectness of the information contained in the document; or
- (3) create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 325. IC 23-18-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) If the **secretary of state department** refuses to file a document delivered to the **secretary of state department** for filing, the domestic or foreign limited liability company may appeal the refusal to the circuit or superior court of the county where the limited liability company's principal office, or if there is none in Indiana its registered office, is or will be located. The appeal is commenced by petitioning the court to compel the filing of the document and by attaching to the petition the document and the **secretary of state's department's** explanation of the refusal to file.

(b) The court may order the **secretary of state department** to file the document or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

SECTION 326. IC 23-18-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. A certification stamp affixed on or a certification certificate attached to a copy of a document under this chapter ~~bearing the secretary of state's signature, which may be in facsimile;~~ and the seal of this state ~~is~~ **are** conclusive evidence that the original document is on file with the **secretary of state: department.**

SECTION 327. IC 23-18-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) A person may request the **secretary of state department** to furnish a certificate of existence for a domestic limited liability company or a certificate of authorization for a foreign limited liability company.

(b) A certificate of existence or authorization sets forth the following:



(1) The domestic limited liability company's name or the foreign limited liability company's name used in Indiana.

(2) If a domestic limited liability company:

(A) that the domestic limited liability company is organized under Indiana law;

(B) the date of its organization; and

(C) the latest date, if any, on which the limited liability company is to be dissolved.

(3) If a foreign limited liability company, that the foreign limited liability company is authorized to transact business in Indiana.

(4) That articles of dissolution have not been filed.

(5) Other facts of record ~~in with the office of the secretary of state~~ **department** that may be requested by the applicant.

(c) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the ~~secretary of state~~ **department** may be relied upon as conclusive evidence that the domestic or foreign limited liability company is in existence or is authorized to transact business in Indiana.

SECTION 328. IC 23-18-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. A person commits a Class A misdemeanor if the person signs a document that the person knows is false in a material respect with the intent that the document be delivered to the ~~secretary of state~~ **department** for filing.

SECTION 329. IC 23-18-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 11. (a) A domestic limited liability company and a foreign limited liability company authorized to transact business in Indiana must file with the ~~secretary of state~~ **department** a biennial report that sets forth the following:

(1) The name of the limited liability company.

(2) The address of its registered office and the name of its registered agent at the office in Indiana.

(3) The address of its principal office.

(b) Information in the biennial report must be current as of the date the biennial report is executed on behalf of the limited liability company.

(c) The first biennial report must be delivered to the ~~secretary of state~~ **department** in the second year following the calendar year in which a domestic limited liability company was organized or a foreign limited liability company was authorized to transact business. The report is due during the same month as the month in which the limited liability company was organized or authorized to transact business.



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Subsequent biennial reports must be delivered to the ~~secretary of state~~ **department** during the same month every two (2) calendar years thereafter. The ~~secretary of state~~ **department** may accept biennial reports during the two (2) months before the month the limited liability company's report is due.

SECTION 330. IC 24-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. ~~As used~~ **The definitions in this section apply throughout** this chapter:

(1) **"Department" refers to the department of commerce created by IC 4-3-2-2.**

~~(a)~~ (2) The term "trademark" means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods or services made, sold, or rendered by him and to distinguish them from goods or services made, sold, or rendered by others.

~~(b)~~ (3) The term "person" means any individual, firm, partnership, corporation, limited liability company, association, union of workingmen, or other organization.

~~(c)~~ (4) The term "applicant" embraces the person filing an application for registration of a trademark under this chapter, his legal representatives, successors, or assigns.

~~(d)~~ (5) The term "registrant" embraces the person to whom the registration of a trademark under this chapter is issued, his legal representatives, successors, or assigns.

~~(e)~~ (6) For the purposes of this chapter, a trademark shall be deemed to be "used" in this state when it is placed in any manner on the goods or their containers or on the tags or labels affixed thereto, or when it is used to identify the services of one person and distinguish them from the services of others, and such goods or services are sold, otherwise distributed, or rendered in this state.

SECTION 331. IC 24-2-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. A trademark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it:

(a) consists of or comprises immoral, deceptive, or scandalous matter;

(b) consists of or comprises matter which may disparage or falsely suggest a connection with persons living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute;



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(c) consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of the United Nations, or of any foreign nation, or any simulation thereof;

(d) consists of or comprises the name, signature, or portrait of any living individual, except with his written consent;

(e) consists of a mark which:

(1) when applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them;

(2) when applied to the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them; or

(3) is primarily merely a surname.

Provided, however, that nothing in this subdivision shall prevent the registration of a mark used in this state by the applicant which has become distinctive of the applicant's goods or services. The **secretary of state department** may accept as evidence that the mark has become distinctive, as applied to the applicant's goods or services, proof of substantially exclusive and continuous use thereof as a mark by the applicant in this state or elsewhere for the five (5) years next preceding the date of the filing of the application for registration; or

(f) consists of or comprises a trademark which so resembles a trademark registered in this state or deemed registered in this state, as provided for by section 16 of this chapter, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive, unless there shall be filed with the **secretary of state department** the written consent of the registrant of such trademark, signed and verified under oath by the registrant or one (1) of its officers or partners.

SECTION 332. IC 24-2-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. Subject to the limitations set forth in this chapter, any person who adopts and uses a trademark in this state may file ~~in the office of~~ **with the secretary of state, department** on a form to be furnished by the ~~secretary of state, department~~ **department** an application for registration of that trademark setting forth, but not limited to, the following information:

(a) The name and business address of the person applying for such registration, and, if a corporation, the state of incorporation.

(b) The goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with such goods or services and the class in which



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such goods or services fall.

(c) The date when the trademark was first used in the United States and the date of its first use in this state by the applicant or his predecessor in business.

(d) A statement that the applicant is the owner of the trademark and that no other person has the right to use such trademark in this state either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor; however, this statement shall not be required if written consent is obtained in the manner provided for in section 3(f) of this chapter.

The application shall be signed and verified by the applicant or by a member of the firm or limited liability company, or an officer of the corporation or association applying. The application shall be accompanied by three (3) specimens or facsimiles of such trademark and shall contain a brief description of such trademark as it appears on such specimens or facsimiles. The application for registration shall be accompanied by a filing fee of ten dollars (\$10) payable to the ~~secretary of state~~ **department**.

SECTION 333. IC 24-2-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) Upon compliance by the applicant with the requirements of this chapter, the ~~secretary of state~~ **department** shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the ~~signature of the secretary of state~~ **authority of the department** and the seal of the state of Indiana, and it shall show the name and business address and, if a corporation, the state of incorporation, of the person claiming ownership of the trademark, the date claimed for the first use of the trademark in the United States and this state, the class of goods or services and a description of the goods or services on which the trademark is used, the registration date, and the term of the registration. One (1) specimen or facsimile of the trademark supplied under section 4 of this chapter shall be attached to and made a part of the certificate of registration.

(b) Any certificate of registration issued by the ~~secretary of state~~ **department** under the ~~provisions of~~ subsection (a) or a copy thereof duly certified by the ~~secretary of state~~ **department** shall be admissible in evidence as competent and sufficient proof of the registration of such trademark in any action or judicial proceedings in any court of this state.

SECTION 334. IC 24-2-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. Registration of



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1 a trade-mark hereunder shall be effective for a term of ten (10) years  
 2 from the date of registration and, upon application filed within six (6)  
 3 months prior to the expiration of such term, on a form to be furnished  
 4 by the ~~secretary of state;~~ **department**, the registration may be renewed  
 5 for a like term. A renewal fee of ten dollars (\$10.00), payable to the  
 6 ~~secretary of state;~~ **department**, shall accompany the application for  
 7 renewal of the registration. A trade-mark registration may be renewed  
 8 for successive periods of ten (10) years in like manner.

9 The ~~secretary of state~~ **department** shall notify the registrants of  
 10 trade-marks of the necessity of renewal within the year next preceding  
 11 the expiration of the ten (10) years from the date of the registration by  
 12 writing to the last known address of the registrants.

13 SECTION 335. IC 24-2-1-7 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. Any  
 15 registration in force on March 8, 1955, shall expire March 8, 1956,  
 16 unless renewed by filing an application with the ~~secretary of state~~  
 17 **department** on a form furnished by ~~him~~ **the department** and paying  
 18 the renewal fee described in section 6 of this chapter within six (6)  
 19 months prior to the expiration of the registration.

20 SECTION 336. IC 24-2-1-8 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. Any trademark  
 22 and its registration under this chapter shall be assignable with the good  
 23 will of the business in which the trademark is used, or with that part of  
 24 the good will of the business connected with the use of and symbolized  
 25 by the trademark. Assignment shall be by instrument in writing duly  
 26 executed and shall be recorded with the ~~secretary of state~~ **department**  
 27 upon the payment of a fee of ten dollars (\$10) payable to the ~~secretary~~  
 28 ~~of state who;~~ **department**. Upon recording of the assignment, ~~the~~  
 29 **department** shall issue in the name of the assignee a new certificate  
 30 for the remainder of the term of the registration or of the last renewal  
 31 thereof. An assignment of any registration under this chapter shall be  
 32 void as against any subsequent purchaser for valuable consideration  
 33 without notice unless it is recorded with the ~~secretary of state;~~  
 34 **department**.

35 SECTION 337. IC 24-2-1-9 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. The ~~secretary~~  
 37 ~~of state~~ **department** shall keep for public examination a record of all  
 38 trademarks registered or renewed under this chapter.

39 SECTION 338. IC 24-2-1-10 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. The ~~secretary~~  
 41 ~~of state~~ **department** shall cancel from the register:

42 (1) after March 8, 1956, all registrations under prior statutes



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- 1 which have not been renewed in accordance with this chapter;  
 2 (2) any registration concerning which the ~~secretary of state~~  
 3 **department** shall receive a voluntary request for cancellation  
 4 thereof from the registrant or the assignee of record;  
 5 (3) all registrations granted under this chapter and not renewed in  
 6 accordance with the provisions of this chapter;  
 7 (4) any registration concerning which a court of competent  
 8 jurisdiction shall find:  
 9 (A) that the registered trademark has been abandoned;  
 10 (B) that the registrant is not the owner of the trademark;  
 11 (C) that the registration was granted improperly; or  
 12 (D) that the registration was obtained fraudulently; and  
 13 (5) when a court of competent jurisdiction shall order cancellation  
 14 of a registration on any ground.

15 SECTION 339. IC 24-2-1-12 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. Any person  
 17 who shall for himself, or on behalf of any other person, procure the  
 18 filing or registration of any trade-mark ~~in with the office of secretary~~  
 19 **of state department** under the provisions hereof, by knowingly making  
 20 any false or fraudulent representation or declaration in writing, or by  
 21 any other fraudulent means, shall be liable to pay all damages sustained  
 22 in consequence of such filing or registration, to be recovered by or on  
 23 behalf of the party injured thereby in any court of competent  
 24 jurisdiction.

25 SECTION 340. IC 24-4-1-5 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. If complaint  
 27 shall be made to the ~~secretary of state~~ **department of commerce** that  
 28 any corporation authorized to do business in this state is guilty of unfair  
 29 discrimination within the terms of this chapter, it shall be the duty of  
 30 the ~~secretary of state~~ **department of commerce** to refer the matter to  
 31 the attorney general, who may, if the facts justify it in his judgment,  
 32 institute proceedings in the court against such corporations.

33 SECTION 341. IC 24-4-1-6 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. If any  
 35 corporation, foreign or domestic, authorized to do business in this state  
 36 is found guilty of unfair discrimination within the terms of this chapter,  
 37 it shall be the duty of the ~~secretary of state~~ **department of commerce**  
 38 to immediately revoke the permit of such corporation to do business in  
 39 this state.

40 SECTION 342. IC 24-4-5-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A person,  
 42 a firm, a limited liability company, a corporation, or an association who

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1 supplies by rental or lease a circulating product that is the property of  
 2 the supplier may adopt and use a name or other mark or device woven,  
 3 impressed, or produced on the circulating product to indicate  
 4 ownership and registration as described by this chapter.

5 (b) The owner of a delivery container may adopt and use an  
 6 identifying mark or device for affixing or stamping on a delivery  
 7 container to indicate ownership and registration as described in this  
 8 chapter.

9 (c) A supplier of a circulating product and an owner of a delivery  
 10 container may file ~~in with the office of the secretary of state~~  
 11 **department of commerce** and also in the office of the county recorder  
 12 of the county in which the principal place of business of the supplier or  
 13 owner is located or if the principal place of business is located outside  
 14 Indiana then in the office of the county recorder of any county of the  
 15 state in which it does business, a description of the names, marks, or  
 16 devices used to indicate ownership, and cause such description to be  
 17 printed once a week for three (3) successive weeks in a newspaper  
 18 published in the county in which such description is filed. The  
 19 registrant shall pay the ~~secretary of state~~ **department of commerce**  
 20 three dollars (\$3) for each registration and the county recorder, the  
 21 amount provided by law for recordation.

22 SECTION 343. IC 24-5-7-13 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13. A health spa  
 24 that sells contracts for health spa services to be rendered at a planned  
 25 health spa facility or a health spa facility under construction shall file  
 26 with the ~~secretary of state~~ **department of commerce** a bond issued by  
 27 a surety company admitted to do business in Indiana in the amount of  
 28 twenty-five thousand dollars (\$25,000) or such greater amount as the  
 29 ~~secretary of state~~ **department of commerce** may specify by rule. The  
 30 health spa is relieved from the obligation to maintain such a bond upon  
 31 commencing health spa service.

32 SECTION 344. IC 24-5-7-14 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. (a) The state  
 34 of Indiana shall be the obligee under the bond.

35 (b) The bond shall be:

- 36 (1) executed by the health spa as principal and by a corporate
- 37 surety licensed to do business in Indiana as surety;
- 38 (2) in such form and shall contain such terms and conditions as
- 39 the ~~secretary of state~~ **department of commerce** prescribes;
- 40 (3) conditioned upon the faithful performance of all obligations
- 41 of a health spa to construct or commence operations at its planned
- 42 facility; and



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(4) effective from the date of filing with the ~~secretary of state~~  
**department of commerce** and shall continue in full force and  
 effect until cancelled.

(c) The total and aggregate liability of the surety on a bond is  
 limited to the amount specified in the bond.

(d) A health spa may not cancel a bond prior to the commencement  
 of health spa services without the prior written approval of the  
~~secretary of state~~ **department of commerce** and without the ~~secretary's~~  
**department's** approval of a substitute bond so as to provide continuous  
 bonding of the health spa's activities prior to the commencement of  
 health spa services.

(e) The surety on a bond may cancel a bond filed under this chapter  
 only after the expiration of ninety (90) days from the date the surety, by  
 registered or certified mail, return receipt requested, mails to the  
~~secretary of state~~ **department of commerce** and to the principal on the  
 bond a notice of intent to cancel.

(f) Not later than thirty (30) days prior to the date upon which a  
 bond cancellation becomes effective, the health spa shall give written  
 notice to the ~~secretary of state~~ **department of commerce** that a new  
 bond has been obtained so as to provide continuous bond coverage of  
 the health spa's activities prior to the commencement of health spa  
 services.

SECTION 345. IC 24-5-7-15 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. (a) If any  
 health spa fails, or is alleged to have failed, to meet its obligations prior  
 to the commencement of health spa services, the ~~secretary of state~~  
**department of commerce** shall hold a hearing and determine whether  
 there has been such a failure, determine those persons who, as buyers,  
 have sustained financial losses recoverable under the bond and, if  
 appropriate, distribute the bond proceeds to the persons sustaining  
 losses, to the extent of their losses.

(b) Actions upon the bond and the right to payment under the bond  
 extend solely to the ~~secretary of state~~ **department of commerce**.  
 However, if the ~~secretary of state~~ **department** has not initiated an  
 action upon the bond by scheduling and holding a hearing within thirty  
 (30) days of a written request to do so, any claimant may initiate an  
 action in the circuit court of Marion County, Indiana, to require the  
~~secretary of state~~ **department** to take action.

(c) If, upon a hearing, the ~~secretary of state~~ **department of**  
**commerce** determines that the claims of persons who have sustained  
 financial losses recoverable under the seller's bond exceed the amount  
 of the bond proceeds, the proceeds shall be prorated among those



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persons according to the ratio that each person's loss bears to the total amount of all proven losses.

(d) The determination of the ~~secretary of state~~ **department of commerce** as to liability under the bond and the amount distributed under the bond is binding upon the principal and surety of the bond.

(e) All hearings held under this section shall be held in accordance with IC 4-21.5-3.

(f) The existence of the bond and the bond recovery procedure in no way affect or alter any other right or remedy which a person may have under applicable law.

SECTION 346. IC 24-5-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 18. The ~~secretary of state~~ **department of commerce** shall have all powers necessary to accomplish the responsibilities assigned to ~~him~~ **the department** in this chapter including but not limited to the authority to compel the production of financial statements and such other information as the ~~secretary of state may deem~~ **department considers** necessary.

SECTION 347. IC 25-1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.
- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects.
- (5) State board of barber examiners.
- (6) State board of cosmetology examiners.
- (7) Medical licensing board of Indiana.
- (8) ~~Secretary of state.~~ **The department of financial institutions.**
- (9) State board of dental examiners.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.
- (16) Indiana board of pharmacy.



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- 1 (17) Indiana plumbing commission.
- 2 (18) Board of podiatric medicine.
- 3 (19) Private detectives licensing board.
- 4 (20) State board of registration for professional engineers.
- 5 (21) Board of environmental health specialists.
- 6 (22) State psychology board.
- 7 (23) Indiana real estate commission.
- 8 (24) Speech-language pathology and audiology board.
- 9 (25) Department of natural resources.
- 10 (26) State boxing commission.
- 11 (27) Board of chiropractic examiners.
- 12 (28) Mining board.
- 13 (29) Indiana board of veterinary medical examiners.
- 14 (30) State department of health.
- 15 (31) Indiana physical therapy committee.
- 16 (32) Respiratory care committee.
- 17 (33) Occupational therapy committee.
- 18 (34) Social worker, marriage and family therapist, and mental
- 19 health counselor board.
- 20 (35) Real estate appraiser licensure and certification board.
- 21 (36) State board of registration for land surveyors.
- 22 (37) Physician assistant committee.
- 23 (38) Indiana dietitians certification board.
- 24 (39) Indiana hypnotist committee.
- 25 (40) Any other occupational or professional agency created after
- 26 June 30, 1981.

27 (c) Notwithstanding any other law, the entities included in  
 28 subsection (b) shall send a notice of the upcoming expiration of a  
 29 license to each licensee at least sixty (60) days prior to the expiration  
 30 of the license. The notice must inform the licensee of the need to renew  
 31 and the requirement of payment of the renewal fee. If this notice of  
 32 expiration is not sent by the entity, the licensee is not subject to a  
 33 sanction for failure to renew if, once notice is received from the entity,  
 34 the license is renewed within forty-five (45) days of the receipt of the  
 35 notice.

36 SECTION 348. IC 25-2.1-7-1 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. An application  
 38 by an individual or a firm that is not a resident of Indiana for a  
 39 certificate under IC 25-2.1-3 or IC 25-2.1-4 or a permit to practice  
 40 under IC 25-2.1-5 constitutes appointment of the **secretary of state**  
 41 **attorney general** as the applicant's agent on whom process may be  
 42 served in an action or proceeding against the applicant arising out of a



transaction or operation connected with or incidental to the practice of accountancy by the applicant within Indiana.

SECTION 349. IC 25-11-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 2.5. As used in this chapter, "department" refers to the department of financial institutions established by IC 28-11-1-1.**

SECTION 350. IC 25-11-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) Any person desiring to conduct a collection agency shall make an application to the ~~secretary of state~~ **department** upon such forms as may be prescribed by the ~~secretary of state~~ **department**. Such application shall include the following:

- (1) If the applicant is an individual:
  - (A) the individual's name;
  - (B) the individual's residence address;
  - (C) the address of each location from which the individual carries out the activities of the collection agency; and
  - (D) a statement that the individual satisfies the qualifications set forth in section 4 of this chapter.
- (2) If the applicant is a partnership:
  - (A) the name of each partner;
  - (B) the business address of the partnership;
  - (C) the residence address of at least one (1) of the partners;
  - (D) the address of each location from which the partnership carries out the activities of the collection agency; and
  - (E) a statement that each partner in the partnership satisfies the qualifications set forth in section 4 of this chapter.
- (3) If the applicant is a limited liability company:
  - (A) the date and place of organization;
  - (B) the name of the limited liability company;
  - (C) the business address of the limited liability company;
  - (D) the residence address of at least one (1) of the managers or members of the limited liability company; and
  - (E) a statement that each of the managers and members in the limited liability company satisfies the qualifications set forth in section 4 of this chapter.
- (4) If the applicant is a corporation:
  - (A) the date and place of incorporation;
  - (B) the name of the corporation;
  - (C) the business address of the corporation;
  - (D) the residence address of at least one (1) of the officers of





the corporation; and

(E) a statement that each of the officers of the corporation satisfies the qualifications set forth in section 4 of this chapter.

The application shall be duly sworn to before an officer qualified to administer oaths. The application shall set forth therein any other verified information which will assist the ~~secretary of state~~ **department** in determining the qualifications of the applicant to meet the requirements of a collection agency as hereinunder set forth.

(b) Every original and renewal application of any person desiring to conduct a collection agency shall be accompanied by a fee of one hundred dollars (\$100) plus an additional fee of thirty dollars (\$30) for each branch office operated by the applicant whether as sole owner, partnership, limited liability company, or corporation.

(c) Any person desiring to secure a renewal of a collection agency license shall make a renewal application to the ~~secretary of state~~ **department** not later than January 1 of the year following the year in which the person's license expires under section 5 of this chapter. The application shall be made on such forms as the ~~secretary of state~~ **department** may prescribe. Such application shall contain therein verified information that will assist the ~~secretary of state~~ **department** in determining whether or not the applicant is in default, or is in violation of any of the provisions of this chapter, and whether or not the applicant has at all times complied with the requirements of this chapter in the operation of the applicant's collection agency.

(d) Each renewal application shall be accompanied by the renewal fee and an additional fee of thirty dollars (\$30) for each branch office maintained and operated by the applicant.

(e) Every original and renewal application shall be accompanied by the following:

(1) A corporate surety bond in the sum of five thousand dollars (\$5,000) for each office the applicant operates in the state of Indiana. All bonds shall run to the people of the state of Indiana and shall be furnished by a surety company authorized to do business in this state. All bonds shall be conditioned upon the faithful accounting of all money collected upon accounts entrusted to such person and shall be continuous in form and shall remain in full force and effect and run continuously with the license period and any renewal thereof. All bonds shall further be conditioned upon the provision that the applicant shall, within sixty (60) days from the date of the collection of any claim, render an account of and pay to the client, for whom collection has been made, the proceeds of such collection less the charges for

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1 collection agreed upon by and between the applicant and the  
 2 client. All bonds shall be filed ~~in with the office of the secretary~~  
 3 ~~of state department~~ and shall be approved by the ~~secretary of~~  
 4 ~~state department~~ before being filed. All bonds filed and  
 5 approved shall be for the use and benefit of all persons damaged  
 6 by the wrongful conversion of any money by such person, and any  
 7 individual so injured or aggrieved may bring an action upon such  
 8 bond. The surety company may notify the ~~secretary of state~~  
 9 ~~department~~ and principal of its desire to terminate its liability  
 10 under any bond furnished. Thirty (30) days after receipt of such  
 11 notice by the ~~secretary of state, department, the secretary of state~~  
 12 ~~department~~ shall thereupon require the principal to file a new  
 13 bond or discontinue all operations. If a new bond is filed by the  
 14 principal all liability under any previous bond shall thereupon  
 15 cease and terminate. If a new bond shall not be filed within the  
 16 thirty (30) day period above specified the ~~secretary of state~~  
 17 ~~department~~ shall, after expiration of the period, revoke the  
 18 principal's license.

19 (2) Any applicant who is a nonresident of the state of Indiana  
 20 shall also submit a statement appointing an agent or attorney  
 21 resident herein, upon whom all legal process against the applicant  
 22 may be served. The statement shall contain a stipulation that the  
 23 applicant agrees that service of legal process upon such agent or  
 24 attorney shall be valid service upon the applicant.

25 SECTION 351. IC 25-11-1-5 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) The  
 27 ~~secretary of state department~~ shall investigate the qualifications of the  
 28 applicant and if the applicant meets the qualifications of this chapter  
 29 the ~~secretary of state department~~ shall approve the application. If the  
 30 application is approved the license shall be issued forthwith to the  
 31 applicant. All licenses are valid for two (2) years and shall expire on  
 32 the thirty-first day of December of the year following the year in which  
 33 the license was issued. If the application for a license is denied, the  
 34 application fees shall be retained by the ~~secretary of state, department.~~

35 (b) The ~~secretary of state department~~ shall issue a license to any  
 36 person who holds and presents with the application a valid and  
 37 subsisting license to operate a collection agency issued by another state  
 38 or state agency if:

- 39 (1) the requirements for the securing of such license were, at the  
 40 time of issuance, substantially the same or equal to the  
 41 requirements imposed by this chapter;  
 42 (2) the state concerned extends reciprocity under similar



1 circumstances to licensed collection agencies of this state; and  
 2 (3) the application is accompanied by the fees and financial  
 3 bonding requirements as provided in this chapter.

4 (c) In the event of the death of an individual licensee, the dissolution  
 5 of a licensee partnership by death or operation of law, or the  
 6 termination of employment of the active manager if the licensee is a  
 7 firm, partnership, limited liability company, or corporation, upon a  
 8 showing that the bonding requirements provided for in this chapter are  
 9 complied with, the ~~secretary of state~~ **department** shall issue, without  
 10 a fee, a provisional license to the personal representative of the  
 11 deceased, the personal representative's appointee, the surviving partner,  
 12 the firm, the limited liability company, or the corporation, as the case  
 13 may be, which shall be for the following purposes only and shall expire  
 14 at the following times:

15 (1) A provisional license issued to a personal representative or a  
 16 personal representative's appointee expires one (1) year from the  
 17 date of the issuance and shall not be subject to renewal. The  
 18 authority of the provisional license so issued shall be limited to  
 19 such activities as may be necessary to terminate the business of  
 20 the former licensee.

21 (2) All other provisional licenses expire three (3) months from the  
 22 date of issuance unless the provisional licensee, within this  
 23 period, can meet the requirements for a full license as provided in  
 24 this chapter.

25 (d) A nonresident collection agency that has only incidental contact  
 26 with a debtor is not required to be licensed under this chapter. As used  
 27 in this subsection, "incidental contact" means contact on behalf of  
 28 nonresident creditors using interstate communications, including  
 29 telephone, mail service, or facsimile transmissions.

30 SECTION 352. IC 25-11-1-6 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. The ~~secretary~~  
 32 ~~of state~~ **department** shall keep ~~in the secretary of state's office~~ a record  
 33 of all applications for licenses and all bonds required to be filed,  
 34 including a statement as to whether a license, renewal license, or  
 35 provisional license has been issued under each application and bond,  
 36 and if revoked or suspended, the date of the filing of the order of  
 37 revocation or suspension. The ~~secretary of state~~ **department** shall  
 38 maintain a list of all individuals, firms, partnerships, limited liability  
 39 companies, or corporations who have had their license revoked or  
 40 suspended, and the ~~secretary of state~~ **department** shall keep a written  
 41 record of all complaints filed against any licensee. Each license issued  
 42 shall contain the name and address of the licensee and a serial number.



1 The record shall be open to inspection as public records.

2 SECTION 353. IC 25-11-1-8 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. The ~~secretary~~  
4 ~~of state department~~ shall adopt and enforce such rules and regulations,  
5 not in conflict with the provisions of this chapter, as are advisable or  
6 necessary to carry out the provisions of this chapter. All money  
7 collected under the provisions of this chapter shall be deposited by the  
8 treasurer of state into the general fund of the state.

9 SECTION 354. IC 25-11-1-9 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. Upon the filing  
11 with the ~~secretary of state, department~~ by any interested person, of a  
12 verified written complaint which charges any licensee hereunder with  
13 a specific violation of any of the provisions of this chapter, the  
14 ~~secretary of state department~~ shall cause an investigation of the  
15 complaint to be made. If the investigation shows probable cause for the  
16 revocation or suspension of the license, the ~~secretary of state~~  
17 ~~department~~ shall send a written notice to such licensee, stating in such  
18 notice the alleged grounds for the revocation or suspension and fixing  
19 a time and place for the hearing thereof. The hearing shall be held not  
20 less than five (5) days nor more than twenty (20) days from the time of  
21 the mailing of said notice. The ~~secretary of state department~~ may  
22 subpoena witnesses, books, and records and may administer oaths. The  
23 licensee may appear and defend against such charges in person or by  
24 counsel. If upon such hearing the ~~secretary of state department~~ finds  
25 the charges to be true, the ~~secretary of state department~~ shall either  
26 revoke or suspend the license of the licensee. Suspension shall be for  
27 a time certain and in no event for a longer period than one (1) year. No  
28 license shall be issued to any person whose license has been revoked  
29 for a period of two (2) years from the date of revocation. Reapplication  
30 for a license, after revocation as provided, shall be made in the same  
31 manner as provided in this chapter for an original application for a  
32 license.

33 SECTION 355. IC 25-11-1-10 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. Any decision  
35 of the ~~secretary of state department~~ revoking, suspending, or refusing  
36 to issue a license may be appealed to the circuit or superior court of  
37 Marion County or to the circuit or superior court of the county in which  
38 the licensee operates the alleged offending collection agency, for a trial  
39 de novo, and any judgment of the court may be appealed therefrom to  
40 the supreme court or the court of appeals, in the same manner as in  
41 civil cases, by either of the parties to the action.

42 SECTION 356. IC 25-11-1-12 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. (a) A person  
2 who violates this chapter commits a Class B misdemeanor.

3 (b) The prosecuting attorney of any judicial circuit upon the  
4 complaint of the ~~secretary of state~~, **department**, shall prosecute all  
5 violations of this chapter occurring within his jurisdiction.

6 SECTION 357. IC 25-30-1-5 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. This chapter  
8 does not require any of the following persons to be a licensee:

9 (1) A law enforcement officer of the United States, a state, or a  
10 political subdivision of a state to the extent that the officer or  
11 employee is engaged in the performance of the officer's or  
12 employee's official duties.

13 (2) Any person to the extent that the person is engaged in the  
14 business of furnishing and obtaining information concerning the  
15 financial rating of other persons.

16 (3) A collection agency licensed by the ~~secretary of state~~  
17 **department of financial institutions** or its employee acting  
18 within the scope of the employee's employment, to the extent that  
19 the person is making an investigation incidental to the business of  
20 the agency, including an investigation of the location of a debtor  
21 or a debtor's assets in a property that the client has an interest in  
22 or a lien upon.

23 (4) An armored service agency to the extent that the agency is  
24 engaged in the business of transporting property to prevent the  
25 theft or unlawful taking of goods, wares, merchandise, or money.

26 (5) An attorney or employee of an attorney to the extent that the  
27 person is engaged in investigative matters incident to the delivery  
28 of professional services that constitute the practice of law.

29 (6) An insurance adjuster to the extent that the adjuster is  
30 employed in the investigation and settlement of claims made  
31 against insurance companies or persons insured by insurance  
32 companies if the adjuster is a regular employee of the insurance  
33 company, and the insurance company is authorized to do business  
34 in Indiana and is complying with the laws regulating insurance  
35 companies in Indiana.

36 (7) Any employee to the extent that the employee is hired for the  
37 purpose of guarding and protecting the properties of railroad  
38 companies and is licensed as a railroad policeman under  
39 IC 8-3-17.

40 (8) An owner of an industrial plant or an employee of the owner  
41 to the extent that the person is hiring a plant security guard for the  
42 owner's industrial plant.

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(9) A person primarily engaged in the business of furnishing information for:

(A) business decisions and transactions in connection with credit, employment, or marketing; or

(B) insurance purposes;

including a consumer reporting agency as defined by the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(10) A retail merchant or an employee of the retail merchant to the extent that the person is hiring a security guard for the retail merchant's retail establishment.

(11) A professional engineer registered under IC 25-31 or a person acting under a registered professional engineer's supervision, to the extent the professional engineer is engaged in an investigation incident to the practice of engineering.

(12) An architect with a certificate of registration under IC 25-4, to the extent the architect is engaged in an investigation incident to the practice of architecture.

(13) A land surveyor with a certificate of registration under IC 25-21.5, to the extent the land surveyor is engaged in an investigation incident to the practice of land surveying.

SECTION 358. IC 25-34.1-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public.

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana; however, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the

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business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one hundred twenty (120) days after passing the commission examination, submit the license fee of fifty dollars (\$50). If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

(1) have as partners only individuals who are licensed brokers;

(2) have at least one (1) partner who is a resident of Indiana;

(3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and

(4) submit the license fee of fifty dollars (\$50) and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

(1) have a licensed broker residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions;

(2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and

(3) submit the license fee of fifty dollars (\$50), an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the ~~secretary of state of Indiana~~ **department of commerce**.

(d) To obtain a broker license, a limited liability company must:

(1) if a member-managed limited liability company:

(A) have as members only individuals who are licensed brokers; and

(B) have at least one (1) member who is a resident of Indiana; or

(2) if a manager-managed limited liability company, have a licensed broker residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the



company in real estate transactions;

(3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

(4) submit the license fee of fifty dollars (\$50) and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one hundred twenty (120) days after the date of the notice of passing the examination or the date a license is issued.

(h) A broker license expires, for individuals, at midnight, December 31 and, for corporations, partnerships, and limited liability companies at midnight, June 30 of the next even-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee of fifty dollars (\$50). An expired license may be reinstated within one hundred twenty (120) days after expiration by payment of all

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unpaid license fees together with twenty dollars (\$20). If the license is renewed within eighteen (18) months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars (\$100) plus any unpaid license fees. If a broker fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless the broker again complies with the requirements of subsection (a)(4), (a)(5), and (a)(6).

(i) A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 359. IC 25-34.1-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. To obtain course approval, a person must apply to the commission by submitting a bond in the amount of ten thousand dollars (\$10,000) and an application which includes a copy of the accreditation certificate issued by the appropriate accreditation body, if any, a detailed teaching syllabus, a proposed certificate to be issued to students who successfully complete the course, and other information and documents which may be required by the commission. If the course is to be conducted by a corporation, the application shall also include the names and residence addresses of all directors and officers, a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the ~~secretary of state of Indiana~~ **department of commerce**.

SECTION 360. IC 25-34.1-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. (a) To obtain course approval, a person must apply to the board by submitting the following:

- (1) A bond in the amount of ten thousand dollars (\$10,000).
- (2) An application that includes the following:
  - (A) A copy of the accreditation certificate issued by the appropriate accreditation body, if any.
  - (B) A detailed teaching syllabus.
  - (C) A proposed certificate to be issued to students who successfully complete the course.
  - (D) Other information and documents that may be required by the board.



(b) If the course is to be conducted by a corporation, the application shall also include the following:

- (1) Names and residence addresses of all directors and officers.
- (2) A copy of the certificate of incorporation.
- (3) A certificate of good standing of the corporation issued by the ~~secretary of state~~ **department of commerce**.

(c) The board shall be the obligee under the bond issued under subsection (a). The bond shall be:

- (1) executed by the person seeking course approval and by a corporate surety, licensed to do business in Indiana, as surety;
- (2) in the form and with the terms and conditions required by the board;
- (3) conditioned upon faithful compliance with all requirements of an approved course as provided by this article and the rules adopted by the commission on recommendation of the board; and
- (4) effective from the bond's effective date and continue in effect until canceled.

(d) The total and aggregate liability of the surety on a bond is limited to the amount specified in the bond. The continuous nature of the bond does not cause the liability of the surety under the bond to accumulate for each successive approval period during which the bond is in force.

(e) To provide continuous bonding of the school's activities, a school providing an approved course may not cancel a bond without the board's prior written approval of cancellation and approval of a substitute bond. The surety on a bond may cancel a bond filed under this article only after ninety (90) days from the date the surety sends by registered or certified mail a notice of intent to cancel to the board and to the school.

(f) To provide continuous bond coverage of the school's activities, the school shall give written notice to the board, not later than thirty (30) days before the date upon which a bond cancellation becomes effective, that a new bond has been obtained.

(g) If a school has submitted a bond under IC 25-34.1-5-3, the school may augment that bond in the amount required under this section and for the purposes required under this section.

SECTION 361. IC 26-1-1-108.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 108.1. (a) The ~~secretary of state~~ **department** may provide that a document required to be filed under this article with the ~~secretary of state~~ **department** may be filed by telecopy, facsimile, or other form of electronic transmission meeting the requirements established by the ~~secretary of state~~.



1 **department.**

2 (b) The **secretary of state department** may accept payment of a  
3 filing fee for a document filed by electronic transmission by credit card,  
4 debit card, charge card, or similar method. However, if the filing fee is  
5 paid by credit card, debit card, charge card, or similar method, the  
6 liability is not finally discharged until the **secretary of state**  
7 **department** receives payment or credit from the institution responsible  
8 for making the payment or credit.

9 (c) The **secretary of state department** may contract with a bank or  
10 credit card vendor for acceptance of bank or credit cards. However, if  
11 there is a vendor transaction charge or discount fee, whether billed to  
12 the **secretary of state department** or charged directly to the **secretary**  
13 **of state's department's** account, the **secretary of state department** or  
14 the credit card vendor may collect from the person using the bank or  
15 credit card a fee that may not exceed the highest transaction charge or  
16 discount fee charged to the **secretary of state department** by the bank  
17 or credit card vendor during the most recent collection period. The fee  
18 may be collected regardless of any agreement between the bank and a  
19 credit card vendor or regardless of any internal policy of the credit card  
20 vendor that may prohibit this type of fee. The fee is a permitted  
21 additional charge under IC 24-4.5-3-202.

22 SECTION 362. IC 26-1-1-201.5 IS ADDED TO THE INDIANA  
23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
24 [EFFECTIVE JANUARY 1, 2000]: **Sec. 201.5. As used in IC 26-1,**  
25 **"department" refers to the department of financial institutions**  
26 **established by IC 28-11-1-1.**

27 SECTION 363. IC 26-1-6.1-103 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 103. (1) Except  
29 as otherwise provided in subsection (3), this chapter applies to a bulk  
30 sale if:

31 (a) the seller's principal business is the sale of inventory from  
32 stock; and

33 (b) on the date of the bulk-sale agreement the seller is located in  
34 Indiana or, if the seller is located in a jurisdiction that is not a part  
35 of the United States, the seller's major executive office in the  
36 United States is in Indiana.

37 (2) A seller is deemed to be located at the seller's place of business.  
38 If a seller has more than one (1) place of business, the seller is deemed  
39 located at the seller's chief executive office.

40 (3) This chapter does not apply to:

41 (a) a transfer made to secure payment or performance of an  
42 obligation;



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- 1 (b) a transfer of collateral to a secured party pursuant to  
 2 IC 26-1-9-503;  
 3 (c) a sale of collateral pursuant to IC 26-1-9-504;  
 4 (d) retention of collateral pursuant to IC 26-1-9-505;  
 5 (e) a sale of an asset encumbered by a security interest or lien if  
 6 (i) all the proceeds of the sale are applied in partial or total  
 7 satisfaction of the debt secured by the security interest or lien, or  
 8 (ii) the security interest or lien is enforceable against the asset  
 9 after it has been sold to the buyer and the net contract price is zero  
 10 (0);  
 11 (f) a general assignment for the benefit of creditors or to a  
 12 subsequent transfer by the assignee;  
 13 (g) a sale by an executor, administrator, receiver, trustee in  
 14 bankruptcy, or any public officer under judicial process;  
 15 (h) a sale made in the course of judicial or administrative  
 16 proceedings for the dissolution or reorganization of an  
 17 organization;  
 18 (i) a sale to a buyer whose principal place of business is in the  
 19 United States and who:  
 20 (i) not earlier than twenty-one (21) days before the date of the  
 21 bulk sale, (A) obtains from the seller a verified and dated list  
 22 of claimants of whom the seller has notice three (3) days  
 23 before the seller sends or delivers the list to the buyer or (B)  
 24 conducts a reasonable inquiry to discover the claimants;  
 25 (ii) assumes in full the debts owed to claimants of whom the  
 26 buyer has knowledge on the date the buyer receives the list of  
 27 claimants from the seller or on the date the buyer completes  
 28 the reasonable inquiry, as the case may be;  
 29 (iii) is not insolvent after the assumption; and  
 30 (iv) gives written notice of the assumption not later than thirty  
 31 (30) days after the date of the bulk sale by sending or  
 32 delivering a notice to the claimants identified in subparagraph  
 33 (ii) or by filing a notice ~~in with the office of the secretary of~~  
 34 **state; department;**  
 35 (j) a sale to a buyer whose principal place of business is in the  
 36 United States and who:  
 37 (i) assumes in full the debts that were incurred in the seller's  
 38 business before the date of the bulk sale;  
 39 (ii) is not insolvent after the assumption; and  
 40 (iii) gives written notice of the assumption not later than thirty  
 41 (30) days after the date of the bulk sale by sending or  
 42 delivering a notice to each creditor whose debt is assumed or

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- 1 by filing a notice ~~in with~~ the ~~office of the secretary of state;~~  
2 ~~department;~~  
3 (k) a sale to a new organization that is organized to take over and  
4 continue the business of the seller and that has its principal place  
5 of business in the United States if:  
6 (i) the buyer assumes in full the debts that were incurred in the  
7 seller's business before the date of the bulk sale;  
8 (ii) the seller receives nothing from the sale except an interest  
9 in the new organization that is subordinate to the claims  
10 against the organization arising from the assumption; and  
11 (iii) the buyer gives written notice of the assumption not later  
12 than thirty (30) days after the date of the bulk sale by sending  
13 or delivering a notice to each creditor whose debt is assumed  
14 or by filing a notice ~~in with~~ the ~~office of the secretary of state;~~  
15 ~~department;~~  
16 (l) a sale of assets having:  
17 (i) a value, net of liens, and security interests of less than ten  
18 thousand dollars (\$10,000). If a debt is secured by assets and  
19 other property of the seller, the net value of the assets is  
20 determined by subtracting from their value an amount equal to  
21 the product of the debt multiplied by a fraction, the numerator  
22 of which is the value of the assets on the date of the bulk sale  
23 and the denominator of which is the value of all property  
24 securing the debt on the date of the bulk sale; or  
25 (ii) a value of more than twenty-five million dollars  
26 (\$25,000,000);  
27 on the date of the bulk-sale agreement; or  
28 (m) a sale required by, and made pursuant to, statute.  
29 (4) The notice under subsection (3)(i)(iv) must state:  
30 (i) that a sale that may constitute a bulk sale has been or will  
31 be made;  
32 (ii) the date or prospective date of the bulk sale;  
33 (iii) the individual, partnership, or corporate names and the  
34 addresses of the seller and buyer;  
35 (iv) the address to which inquiries about the sale may be made,  
36 if different from the seller's address; and  
37 (v) that the buyer has assumed or will assume in full the debts  
38 owed to claimants of whom the buyer has knowledge on the  
39 date the buyer receives the list of claimants from the seller or  
40 completes a reasonable inquiry to discover the claimants.  
41 (5) The notice under subsections (3)(j)(iii) and (3)(k)(iii) must state:  
42 (i) that a sale that may constitute a bulk sale has been or will

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be made;

(ii) the date or prospective date of the bulk sale;

(iii) the individual, partnership, or corporate names and the addresses of the seller and buyer;

(iv) the address to which inquiries about the sale may be made, if different from the seller's address; and

(v) that the buyer has assumed or will assume the debts that were incurred in the seller's business before the date of the bulk sale.

(6) For purposes of subsection (3)(l), the value of assets is presumed to be equal to the price the buyer agrees to pay for the assets. However, in a sale by auction or a sale conducted by a liquidator on the seller's behalf, the value of assets is presumed to be the amount the auctioneer or liquidator reasonably estimates the assets will bring at auction or upon liquidation.

SECTION 364. IC 26-1-6.1-104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 104. (1) In a bulk sale (as defined in IC 26-1-6.1-102(1)(c)(ii)) the buyer shall:

(a) obtain from the seller a list of all business names and addresses used by the seller within three (3) years before the date the list is sent or delivered to the buyer;

(b) unless excused under subsection (2), obtain from the seller a verified and dated list of claimants of whom the seller has notice three (3) days before the seller sends or delivers the list to the buyer and including, to the extent known by the seller, the address of and the amount claimed by each claimant;

(c) obtain from the seller or prepare a schedule of distribution (IC 26-1-6.1-106(1));

(d) give notice of the bulk sale in accordance with IC 26-1-6.1-105;

(e) unless excused under IC 26-1-6.1-106(4), distribute the net contract price in accordance with the undertakings of the buyer in the schedule of distribution; and

(f) unless excused under subsection (2), make available the list of claimants (subsection (1)(b)) by:

(i) promptly sending or delivering a copy of the list without charge to any claimant whose written request is received by the buyer not later than six (6) months after the date of the bulk sale;

(ii) permitting any claimant to inspect and copy the list at any reasonable hour upon request received by the buyer not later than six (6) months after the date of the bulk sale; or



(iii) filing a copy of the list ~~in with the office of the secretary of state department~~ not later than the time for giving a notice of the bulk sale (IC 26-1-6.1-105(5)).

A list filed in accordance with this subparagraph must state the individual, partnership, or corporate name and a mailing address of the seller.

(2) A buyer who gives notice in accordance with IC 26-1-6.1-105(2) is excused from complying with the requirements of subsections (1)(b) and (1)(f).

SECTION 365. IC 26-1-6.1-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 105. (1) Except as otherwise provided in subsection (2), to comply with IC 26-1-6.1-104(1)(d) the buyer shall send or deliver a written notice of the bulk sale to each claimant on the list of claimants (IC 26-1-6.1-104(1)(b)) and to any other claimant of whom the buyer has knowledge at the time the notice of the bulk sale is sent or delivered.

(2) A buyer may comply with IC 26-1-6.1-104(1)(d) by filing a written notice of the bulk sale ~~in with the office of the secretary of state department~~ if:

(a) on the date of the bulk-sale agreement the seller has two hundred (200) or more claimants, exclusive of claimants holding secured or matured claims for employment compensation and benefits, including commissions and vacation, severance, and sick-leave pay; or

(b) the buyer has received a verified statement from the seller stating that, as of the date of the bulk-sale agreement, the number of claimants, exclusive of claimants holding secured or matured claims for employment compensation and benefits, including commissions and vacation, severance, and sick-leave pay, is two hundred (200) or more.

(3) The written notice of the bulk sale must be accompanied by a copy of the schedule of distribution (IC 26-1-6.1-106(1)) and state at least:

(a) that the seller and buyer have entered into an agreement for a sale that may constitute a bulk sale under the laws of the state of Indiana;

(b) the date of the agreement;

(c) the date on or after which more than ten percent (10%) of the assets were or will be transferred;

(d) the date on or after which more than ten percent (10%) of the net contract price was or will be paid, if the date is not stated in the schedule of distribution;



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- (e) the name and a mailing address of the seller;  
 (f) any other business name and address listed by the seller pursuant to IC 26-1-6.1-104(1)(a);  
 (g) the name of the buyer and an address of the buyer from which information concerning the sale can be obtained;  
 (h) a statement indicating the type of assets or describing the assets item by item;  
 (i) the manner in which the buyer will make available the list of claimants (IC 26-1-6.1-104(1)(f)), if applicable; and  
 (j) if the sale is in total or partial satisfaction of an antecedent debt owed by the seller, the amount of the debt to be satisfied and the name of the person to whom it is owed.

(4) For purposes of subsections (3)(e) and (3)(g), the name of a person is the person's individual, partnership, or corporate name.

(5) The buyer shall give notice of the bulk sale not less than forty-five (45) days before the date of the bulk sale and, if the buyer gives notice in accordance with subsection (1), not more than thirty (30) days after obtaining the list of claimants.

(6) A written notice substantially complying with the requirements of subsection (3) is effective even though it contains minor errors that are not seriously misleading.

(7) A form substantially as follows is sufficient to comply with subsection (3):

Notice of Sale

(1) \_\_\_\_\_, whose address is \_\_\_\_\_, is described in this notice as the "seller".

(2) \_\_\_\_\_, whose address is \_\_\_\_\_, is described in this notice as the "buyer".

(3) The seller has disclosed to the buyer that within the past three (3) years the seller has used other business names, operated at other addresses, or both, as follows: \_\_\_\_\_.

(4) The seller and the buyer have entered into an agreement dated \_\_\_\_\_, for a sale that may constitute a bulk sale under the laws of the state of \_\_\_\_\_.

(5) The date on or after which more than ten percent (10%) of the assets that are the subject of the sale were or will be transferred is \_\_\_\_\_, and [if not stated in the schedule of distribution] the date on or after which more than ten percent (10%) of the net contract price was or will be paid is \_\_\_\_\_.

(6) The following assets are the subject of the sale:



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(7) [If applicable] The buyer will make available to claimants of the seller a list of the seller's claimants in the following manner:

\_\_\_\_\_.

(8) [If applicable] The sale is to satisfy \$ \_\_\_\_\_ of an antecedent debt owed by the seller to \_\_\_\_\_.

(9) A copy of the schedule of distribution of the net contract price accompanies this notice.

SECTION 366. IC 26-1-6.1-109 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 109. (1) Presentation of a notice or list of claimants for filing and tender of the filing fee or acceptance of the notice or list by the ~~secretary of state~~ **department** constitutes filing under IC 26-1-6.1.

(2) The ~~secretary of state~~ **department** shall:

- (a) mark each notice or list with a file number and with the date and hour of filing;
- (b) hold the notice or list or a copy for public inspection;
- (c) index the notice or list according to each name given for the seller and for the buyer; and
- (d) note in the index the file number and the addresses of the seller and buyer given in the notice or list.

(3) If the person filing a notice or list furnishes the ~~secretary of state~~ **department** with a copy, the ~~secretary of state~~ **department** upon request shall note upon the copy the file number and date and hour of the filing of the original and send or deliver the copy to the person.

(4) The fee for filing and indexing and for stamping a copy furnished by the person filing to show the date and place of filing is set forth in IC 26-1-9-401.

(5) Upon request of any person, the ~~secretary of state~~ **department** shall issue a certificate showing whether any notice or list with respect to a particular seller or buyer is on file on the date and hour stated in the certificate. If a notice or list is on file, the certificate must give the date and hour of filing of each notice or list and the name and address of each seller, buyer, auctioneer, or liquidator. The fee for the certificate is set forth in IC 26-1-9-401. Upon request of any person, the ~~secretary of state~~ **department** shall furnish a copy of any filed notice or list for the fee that is set forth in IC 26-1-9-401.

(6) The ~~secretary of state~~ **department** shall keep each notice or list for two (2) years after it is filed.

SECTION 367. IC 26-1-9-307 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 307. (1) A buyer in ordinary course of business (IC 26-1-1-201(9)) takes free of a

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1 security interest created by his seller even though the security interest  
 2 is perfected and even though the buyer knows of its existence. The  
 3 following apply whenever a person is buying farm products from a  
 4 person engaged in farming operations who has created a security  
 5 interest on the farm products:

6 (a) A person buying farm products from a person engaged in  
 7 farming operations is not protected by this subsection if he has  
 8 received prior written notice of the security interest. "Written  
 9 notice" means an original financing statement or a carbon,  
 10 photographic, or other reproduction of an original that is effective  
 11 under IC 26-1-9-402, or a notice on a form prescribed by the  
 12 ~~secretary of state~~ **department** or a carbon, photographic, or other  
 13 reproduction of the form that contains the following:

- 14 (i) The full name and address of the debtor.
- 15 (ii) The full name and address of the secured party.
- 16 (iii) A description of the collateral.
- 17 (iv) The date and location of the filing of the security interest.
- 18 (v) The date and signature of the secured party if required by
- 19 IC 26-1-9-402(2).
- 20 (vi) The date and signature of the debtor except as provided in
- 21 IC 26-1-9-402(2)(e).

22 A written notice expires eighteen (18) months after the date the  
 23 secured party signs the notice or at the time the debt that appears  
 24 on the notice is satisfied, whichever occurs first. Notice must be  
 25 received before a buyer of farm products has made full payment  
 26 to the person engaged in farming operations for the farm products  
 27 if the notice is to be considered "prior written notice".

28 (b) A secured party must, within fifteen (15) days of the  
 29 satisfaction of the debt, inform in writing each potential buyer  
 30 listed by the debtor whenever a debt has been satisfied and  
 31 written notice, as required by subdivision (a), had been previously  
 32 sent to that buyer.

33 (c) A debtor engaged in farming operations who has created a  
 34 security interest in farm products must provide the secured party  
 35 with a written list of potential buyers of the farm products at the  
 36 time the debt is incurred if such a list is requested by the secured  
 37 party. The debtor may not sell farm products to a buyer who does  
 38 not appear on the list (if the list is requested by the secured party)  
 39 unless the secured party has given prior written permission to the  
 40 debtor to sell to someone who does not appear on the list, or the  
 41 debtor satisfies the debt for that secured party on the farm  
 42 products he sells within fifteen (15) days of the date of sale. A



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debtor who knowingly or intentionally sells to a buyer who does not appear on the list (if the list is requested by the secured party) and who does not meet one (1) of the above exceptions, commits a Class C misdemeanor. A secured party commits a Class C infraction if he knowingly or intentionally gives false or misleading information on the notice required by subdivision (a) or he fails within fifteen (15) days of satisfaction of the debt to notify purchasers to whom a written notice had been previously sent under subdivision (a) of the satisfaction of the debt.

(d) A purchaser of farm products buying from a person engaged in farming operations must issue a check for payment jointly to the debtor and those secured parties from whom he has received prior written notice of a security interest as provided for in subdivision (a). A purchaser who fails to issue a jointly payable check as required by this subdivision is not protected by this subdivision. A purchaser of farm products (on which there is a perfected security interest) buying from a person engaged in farming operations who withholds all or part of the proceeds of the sale from the seller, in order to satisfy a prior debt ("prior debt" does not include the costs of marketing the farm product or the cost of transporting the farm product to the market) owed by the seller to the buyer, commits a Class C infraction.

(2) In the case of consumer goods, a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family, or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.

(3) A buyer other than a buyer in ordinary course of business (subsection (1) of this section) takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than forty-five (45) days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the forty-five (45) day period.

SECTION 368. IC 26-1-9-401 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 401. (1) The proper place to file in order to perfect a security interest is as follows:

(a) When the collateral is consumer goods, equipment used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the county recorder in the county of the debtor's residence or if the debtor is

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not a resident of this state then in the office of the county recorder in the county where the goods are kept, and in addition when the collateral is crops, growing or to be grown, in the office of the county recorder in the county where the land is located.

(b) When the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to IC 26-1-9-103(5), or when the financing statement is filed as a fixture filing (IC 26-1-9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded.

(c) In all other cases, ~~in with the office of the secretary of state.~~  
**department.**

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of IC 26-1-9 and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in IC 26-1-9-103 determine whether filing is necessary in this state.

(5) For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one (1) place of business.

(6) From amounts collected by the ~~secretary of state~~ **department** from and in connection with filings and requests under IC 26-1 there shall be paid from the general fund, as the primary source of such payment, all valid judgments recovered or to be recovered against county or state filing officers or their employees for failure to properly file or furnish correct information in connection with a request made as to filings and record searches under the filing system of the Uniform Commercial Code. Judgments payable under this section shall be paid if the attorney general is served with a copy of the summons in the original action and given an opportunity to defend; or, if he is not served, only upon motion and de novo hearing without jury trial made to the court rendering the judgment after service of notice thereof upon the attorney general, and after the court enters findings and judgment showing the amount properly payable under IC 26-1. Any affected party or the attorney general may appeal from the original or the

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1 judgment entered pursuant to the motion. Not more than one hundred  
 2 thousand dollars (\$100,000) shall be paid from amounts collected by  
 3 the ~~secretary of state department~~ in any fiscal year.

4 (7) A document described in subsection (8), (9), or (12) must be in  
 5 the standard form prescribed by the ~~secretary of state department~~ to  
 6 be accepted for filing.

7 (8) The fee for filing each of the following is four dollars (\$4):

8 (a) Financing statements, if filed with the ~~secretary of state~~  
 9 ~~department~~.

10 (b) Continuation statements.

11 (c) Separate statements of assignment.

12 (d) Separate amendments of any of the foregoing.

13 (e) Lists of creditors and schedules of property filed with the  
 14 ~~secretary of state department~~ for entry in the bulk sale file.

15 (f) Partial releases, if filed with the county recorder.

16 (g) Lis pendens and other filings under the Uniform Commercial  
 17 Code filing systems.

18 (9) If the document is:

19 (a) filed with the county recorder; and

20 (b) a financing statement;

21 the fee for filing the document is eight dollars (\$8), which includes a  
 22 prepaid release fee of four dollars (\$4).

23 (10) An additional fee of one dollar (\$1) shall be paid for each of the  
 24 following:

25 (a) Filing and indexing a financing statement indicating an  
 26 assignment.

27 (b) Filing and indexing a financing statement that is subject to  
 28 IC 26-1-9-402(4).

29 (c) Indexing each name after the first, including trade names.

30 (d) Furnishing filing data regarding any document.

31 (e) Furnishing a filing officer's document under IC 26-1-9-407(2),  
 32 plus fifty cents (\$0.50) for each financing statement and for each  
 33 statement of assignment listed on the filing officer's document.

34 (11) An additional fee of fifty cents (\$0.50) shall be paid for the  
 35 following:

36 (a) Filing any of the foregoing described in subsection (8) or (9)  
 37 in the fixture file.

38 (b) Each page of a copy of a document.

39 (12) No filing fee shall be charged for the filing of termination  
 40 statements.

41 SECTION 369. IC 26-1-9-402 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 402. (1) Except



as provided in subsection (2), a financing statement is sufficient if it is on the form prescribed by the ~~secretary of state~~ **department** and contains the following:

- (a) The debtor's legal name and address.
- (b) The name and address of the secured party from which information concerning the security interest may be obtained.
- (c) A statement indicating the types or describing the items of collateral.
- (d) The debtor's signature.

A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to IC 26-1-9-103(5), or when the financing statement is filed as a fixture filing (IC 26-1-9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (4).

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in any one (1) of the following:

- (a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances.
- (b) Proceeds under IC 26-1-9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral.
- (c) Collateral as to which the filing has lapsed.
- (d) Collateral acquired after a change of name, identity, or corporate structure of the debtor (subsection (6)).
- (e) Collateral under a security agreement signed by the debtor and authorizing the secured party to file a financing statement. Such a financing statement must state that it is filed in accordance with a security agreement signed by the debtor and authorizing the filing of the statement.

(3) A financing statement may be amended by filing a form (Uniform Commercial Code 3 or Uniform Commercial Code 4) referencing the original financing statement number and date of filing.



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1 An amendment that changes only the secured party information must  
 2 be signed by the secured party. All other amendments must be signed  
 3 by the debtor and the secured party. An amendment does not extend the  
 4 period of effectiveness of a financing statement. If any amendment  
 5 adds collateral, it is effective as to the added collateral only from the  
 6 filing date of the amendment. In IC 26-1-9, unless the context  
 7 otherwise requires, the term "financing statement" means the original  
 8 financing statement and any amendments.

9 (4) A financing statement covering timber to be cut or covering  
 10 minerals or the like (including oil and gas) or accounts subject to  
 11 IC 26-1-9-103(5) or a financing statement filed as a fixture filing (IC  
 12 26-1-9-313) must show that it covers this type of collateral, must recite  
 13 that it is to be filed for record in the real estate records, and must  
 14 contain a description of the real estate sufficient if it were contained in  
 15 a mortgage of the real estate to give constructive notice of the mortgage  
 16 under the law of this state. If the debtor does not have an interest of  
 17 record in the real estate, the financing statement must show the name  
 18 of a record owner.

19 (5) A mortgage is effective as a financing statement filed as a fixture  
 20 filing from the date of its recording if:

- 21 (a) the goods are described in the mortgage by item or type; and
- 22 (b) the goods are or are to become fixtures related to the real
- 23 estate described in the mortgage;
- 24 (c) the mortgage complies with the requirements for a financing
- 25 statement in this section other than a recital that it is to be filed in
- 26 the real estate records; and
- 27 (d) the mortgage is duly recorded.

28 No fee with reference to the financing statement is required other than  
 29 the regular recording and satisfaction fees with respect to the mortgage.

30 (6) A financing statement sufficiently shows the name of the debtor  
 31 if it gives the individual, partnership, or corporate name of the debtor,  
 32 whether or not it adds other trade names or the names of partners.  
 33 Where the debtor so changes his name or in the case of an organization  
 34 its name, identity, or corporate structure that a filed financing statement  
 35 becomes seriously misleading, the filing is not effective to perfect a  
 36 security interest in collateral acquired by the debtor more than four (4)  
 37 months after the change, unless a new appropriate financing statement  
 38 is filed before the expiration of that time. A filed financing statement  
 39 remains effective with respect to collateral transferred by the debtor  
 40 even though the secured party knows of or consents to the transfer.

41 (7) A financing statement substantially complying with the  
 42 requirements of this section is effective even though it contains minor



errors which are not seriously misleading.

(8) The provisions of IC 36-2-11-15 requiring the identification of draftsmen of instruments transferring interests in real estate do not apply to filings under IC 26-1.

SECTION 370. IC 26-1-9-408 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 408. (1) For purposes of IC 26-1-9, the ~~secretary of state~~ **department** shall maintain the following records:

(a) A statement file in which financing and other statements required to be filed under section 401(1)(c) of this chapter, together with security agreements and other supporting papers, marked with consecutive serial numbers as they are filed and shall be held.

(b) A statement index in which the financing and other statements, security agreements, and other supporting papers so filed shall be indexed alphabetically on cards or other suitable material according to the name of the debtor showing:

(i) the name and address of the debtor;

(ii) the file number of the statement, security agreement, or other supporting paper so filed and the date of filing;

(iii) the name and address of the secured party;

(iv) the file number of the original financing statement from the statement file in the case of other statements, security agreements, or papers, and the file numbers from the certificate file of copies of certificates issued relating to the statement, security agreement, or paper in question; and

(v) such other information as the ~~secretary of state~~ **department** may reasonably require.

(c) A file in which copies of documents issued under section 407(2) of this chapter and certificates issued under section 410 of this chapter marked with consecutive serial numbers as they are issued shall be held.

(2) Filing under sections 401 through 408 of this chapter may be by mail accompanied by check or money order for the filing fee. Request for information under section 407(2) of this chapter may be made by mail, and information certificates and receipts shall if so requested be furnished by mail if the request is accompanied by a check or money order sufficient to cover fees and other charges.

(3) The ~~secretary of state~~ **department** shall have the powers and perform the duties required for administration of IC 26-1, including the power and duty to do the following:

(a) Prescribe reasonable rules for the administration of IC 26-1 by

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his office and the offices of the county recorders. IC 4-22-2 does not apply to rules adopted under this subdivision. Before a rule under this subdivision becomes effective, the ~~secretary of state~~ **department** shall make the rule available to the public in printed form. The rule takes effect sixty (60) days after it is made available.

(b) Recommend the forms for statements of the security transaction defined in sections 402 through 406 of this chapter to be used by his office and the offices of the county recorders.

(c) Establish the forms for certificates, receipts, notices, and communications to be issued under IC 26-1 by his office and the offices of the county recorders and the forms of applications, receipts, and other papers to be signed by persons dealing with his office and the county recorders.

(d) Set up a modern filing and indexing system, including the purchase and installation of modern timing, recording, filing, sorting, duplicating, photographic, and other mechanical and electronic devices required in the businesslike administration of IC 26-1.

(e) Provide for the preservation of files, indexes, and other records or, in his discretion, provide for their destruction at any time six (6) years after the date on which any security interest represented by any such file, index, or other record may have lapsed or been terminated.

SECTION 371. IC 26-1-9-409 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 409. (1) For purposes of this chapter, each county recorder shall maintain the following records:

(a) a statement file in which financing and other statements required to be filed under section 401(1)(a) through 401(1)(b) of this chapter, together with security agreements and other supporting papers, marked with consecutive serial numbers as they are filed, shall be held;

(b) a statement index in which the financing and other statements, security agreements, and other supporting papers so filed shall be indexed alphabetically on cards or other suitable material according to the name of the debtor showing:

(i) the name and address of the debtor;

(ii) the file number of the statement, security agreement, or other supporting paper so filed and the date of filing;

(iii) the name and address of the secured party;

(iv) the file number of the original financing statement from

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the statement file in the case of other statements, security agreements, or papers, and the file numbers from the certificate file of copies of certificates issued relating to the statement, security agreement, or paper in question;

(v) a description of the real estate where the statement, security agreement or paper involves collateral under section 401(1)(b) of this chapter (fixtures); and

(vi) such other information as the ~~secretary of state~~ **department** may reasonably require;

(c) a certificate file in which copies of certificates issued under sections 407(2) and 410 of this chapter marked with consecutive serial numbers as they are issued shall be held.

(2) A statement or security agreement covering both real and personal property must comply with this chapter to be effective as a filing as to personal property and must comply with the laws pertaining to real estate to be effective as a recordation as to real property; and such statement or security agreements may, upon payment of the additional fee required by the county recorder be recorded in the real estate records without the necessity of an acknowledgment, and upon recordation in such records it shall be effective as a duly acknowledged and recorded instrument.

(3) Filing under sections 401 through 411 of this chapter may be made by mail accompanied by check or money order for the filing fee. Requests for information under section 407(2) of this chapter may be made by mail, and information, certificates, and receipts shall if so requested be furnished by mail if the request is accompanied by a check or money order sufficient to cover fees and other charges.

(4) Each county recorder shall have the powers and perform the duties required for administration of the provisions of this article, including but without limiting the generality of the foregoing, the power and duty:

(a) to follow rules for the administration of this article reasonably prescribed by the ~~secretary of state~~ **department** and published and made available by the ~~secretary of state~~ **department** to the public in printed form, and to follow any amendments, repeals, and additions reasonably prescribed from time to time by the ~~secretary of state~~ **department** and published and made available by the ~~secretary of state~~ **department** to the public in printed form on or before sixty (60) days before any such amendment, repeal, or addition is to go into effect;

(b) to recommend use of the forms for statements of the security transactions defined in sections 402 through 406 of this chapter

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1 in the administration of the office of the county recorder under  
 2 this article, as recommended by the ~~secretary of state;~~  
 3 **department;**

4 (c) to use the forms for certificates, receipts, notices, and  
 5 communications to be issued in the administration of the office of  
 6 the county recorder under this article, as established by the  
 7 ~~secretary of state;~~ **department;**

8 (d) to set up a modern filing and indexing system, including the  
 9 purchase and installation of modern timing, recording, filing,  
 10 sorting, duplicating, photographic, and other mechanical and  
 11 electronic devices required in the businesslike administration of  
 12 this article;

13 (e) to provide for the preservation of files, indexes, and other  
 14 records or, in the county recorder's discretion, to provide for their  
 15 destruction at any time six (6) years after the date on which any  
 16 security interest represented by any such file, index, or other  
 17 record may have lapsed or been terminated.

18 SECTION 372. IC 26-1-9-410 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 410. Copies of all  
 20 statements, security agreements, and other supporting papers or other  
 21 records received and filed by the filing officer or entries made by the  
 22 filing officer in his records pursuant to IC 26-1 or the rules prescribed  
 23 by the ~~secretary of state~~ **department** for the administration of the  
 24 practice to be observed in filing or making such records, when duly  
 25 certified by the filing officer, shall be taken and received in all courts  
 26 and places of this state as prima facie evidence of the facts therein  
 27 stated; and a certificate from the filing officer as to the existence or  
 28 nonexistence of facts relating to such records, which would not appear  
 29 from a certified copy of any such records, shall be taken and received  
 30 in all courts and places of this state as prima facie evidence of the  
 31 existence or nonexistence of the facts therein stated.

32 SECTION 373. IC 26-1-9-508 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 508. (a) If a  
 34 person believes in good faith that a record indexed under the person's  
 35 name with a filing office described in section 401 of this chapter is  
 36 inaccurate or was wrongfully filed, the person may file a correction  
 37 statement with the filing office having custody of the record. A person  
 38 who files a correction statement under this subsection shall serve notice  
 39 of the filing on the secured party that filed the record.

40 (b) A secured party that receives notice under subsection (a) may  
 41 file a termination statement under section 404 of this chapter with the  
 42 filing office having custody of the record within ten (10) days after

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1 receiving the notice. If a termination statement is not filed by the  
 2 secured party within ten (10) days after the notice is received, the  
 3 debtor may file an action for relief, including reasonable attorney's fees,  
 4 with the court having jurisdiction in the county in which the filing was  
 5 made.

6 (c) If a person believes in good faith that a secured party named in  
 7 a record indexed under the person's name has failed to comply with the  
 8 secured party's duty to file or send to the person a termination  
 9 statement under section 404 of this chapter, the person may file a  
 10 termination request with the filing office having custody of the record.

11 (d) A correction statement or termination request filed under this  
 12 section must include the following:

13 (1) The name and address of the debtor and secured party or  
 14 parties.

15 (2) An identification of the original record to which the correction  
 16 statement or termination request relates by the date and file  
 17 number assigned under section 403 of this chapter, or in some  
 18 other manner prescribed by the ~~secretary of state~~ **department**.

19 (3) If the request is for a correction statement, documentation  
 20 showing why the debtor believes the record is inaccurate or was  
 21 wrongfully filed.

22 (4) If the request is a termination request, the basis for the  
 23 person's belief that a secured party has failed to comply with the  
 24 duty to file or send to the debtor a termination statement.

25 (e) Upon a filing under this section, a correction statement or  
 26 termination request becomes a part of the record to which it relates, but  
 27 does not otherwise affect the record.

28 (f) A person who knowingly or intentionally files a fraudulent  
 29 record with a filing office described in section 401 of this chapter  
 30 commits a Class A misdemeanor.

31 SECTION 374. IC 27-1-2-3 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. As used in this  
 33 article, and unless a different meaning appears from the context: (a)  
 34 "Insurance" means a contract of insurance or an agreement by which  
 35 one (1) party, for a consideration, promises to pay money or its  
 36 equivalent or to do an act valuable to the insured upon the destruction,  
 37 loss or injury of something in which the other party has a pecuniary  
 38 interest, or in consideration of a price paid, adequate to the risk,  
 39 becomes security to the other against loss by certain specified risks; to  
 40 grant indemnity or security against loss for a consideration.

41 (b) "Commissioner" means the "insurance commissioner" of this  
 42 state.



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(c) "Department" means "the department of insurance" of this state.

(d) The term "company" or "corporation" means an insurance company and includes all persons, partnerships, corporations, associations, orders or societies engaged in or proposing to engage in making any kind of insurance authorized by the laws of this state.

(e) The term "domestic company" or "domestic corporation" means an insurance company organized under the insurance laws of this state.

(f) The term "foreign company" or "foreign corporation" means an insurance company organized under the laws of any state of the United States other than this state or under the laws of any territory or insular possession of the United States or the District of Columbia.

(g) The term "alien company" or "alien corporation" means an insurance company organized under the laws of any country other than the United States or territory or insular possession thereof or of the District of Columbia.

(h) The term "person" includes individuals, corporations, associations, and partnerships; personal pronoun includes all genders; the singular includes the plural and the plural includes the singular.

(k) The term "insurance solicitor" means any natural person employed to aid an insurance agent in any manner in soliciting, negotiating or effecting contracts of insurance or indemnity other than life.

(l) The term "principal office" means that office maintained by the corporation in this state, the address of which is required by the provisions of this article to be kept on file in the office of the department.

(m) The term "articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger, consolidation and reinsurance, and in case of corporations, heretofore organized, articles of reorganization filed ~~in with the office of the secretary of state,~~ **department of commerce** and all amendments thereto.

(n) The term "shareholder" means one who is a holder of record of shares of stock in a corporation, unless the context otherwise requires.

(o) The term "policyholder" means one who is a holder of a contract of insurance in an insurance company.

(p) The term "member" means one who holds a contract of insurance or is insured in an insurance company other than a stock corporation.

(q) The term "capital stock" means the aggregate amount of the par value of all shares of capital stock.



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(r) The term "capital" means the aggregate amount paid in on the shares of capital stock of a corporation issued and outstanding.

(s) The term "life insurance company" means any company making one or more of the kinds of insurance set out and defined in class 1(a) of IC 27-1-5-1.

(t) The term "casualty insurance company" means any company making the kind or kinds of insurance set out and defined in class 2 of IC 27-1-5-1.

(u) The term "fire and marine insurance company" means any company making the kind or kinds of insurance set out and defined in class 3 of IC 27-1-5-1.

(v) The term "certificate of authority" means an instrument in writing issued by the department to an insurer, which sets out the authority of such insurer to engage in the business of insurance or activities connected therewith.

(w) The term "premium" means money or any other thing of value paid or given in consideration to an insurer, agent, or solicitor on account of or in connection with a contract of insurance and shall include as a part but not in limitation of the above, policy fees, admission fees, membership fees and regular or special assessments and payments made on account of annuities.

(x) The term "insurer" means a company, firm, partnership, association, order, society or system making any kind or kinds of insurance and shall include associations operating as Lloyds, reciprocal or inter-insurers, or individual underwriters.

(y) The terms "assessment plan" and "assessment insurance" mean the mode or plan and the business of a corporation, association or society organized and limited to the making of insurance on the lives of persons and against disability from disease, bodily injury or death by accident, and which provides for the payment of policy claims, accumulation of reserve or emergency funds, and the expenses of the management and prosecution of its business by payments to be made either at stated periods named in the contract or upon assessments, and wherein the insured's liability to contribute is not limited to a fixed sum.

SECTION 375. IC 27-1-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. When the articles of incorporation have been approved by the attorney-general and returned to the department, then the department shall present the same to the ~~secretary of state for the state of Indiana~~ **department of commerce**. If the ~~secretary of state~~ **department of commerce** finds that the articles of incorporation conform to law, ~~he~~ **the department of**



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1 **commerce** shall ~~indorse his~~ **indicate** approval upon each of the  
 2 triplicate copies of the articles, and when all fees have been paid as  
 3 required by law, ~~he the~~ **department of commerce** shall file one (1)  
 4 copy ~~in his office~~ **with the department of commerce** and return the  
 5 other two (2) copies to the incorporators or their representatives.

6 SECTION 376. IC 27-1-6-11 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 11. (a) When the  
 8 articles of incorporation are returned to the incorporators or their  
 9 representatives bearing the ~~endorsement of the~~ approval of the  
 10 ~~secretary of state,~~ **department of commerce** as provided in section 10  
 11 of this chapter, the incorporators or their representatives shall obtain a  
 12 certified copy of the articles of incorporation from the ~~secretary of state~~  
 13 **department of commerce** and file such certified copy with the  
 14 department.

15 (b) The incorporators shall also file with the department a surety  
 16 bond payable to the state of Indiana in the sum of ten thousand dollars  
 17 (\$10,000), with surety to be approved by the commissioner or collateral  
 18 in the sum of ten thousand dollars (\$10,000), as approved by the  
 19 commissioner, and conditioned upon the faithful accounting to the  
 20 department on completion of organization and receipt of its certificate  
 21 of authority from the department, or to its shareholders, members,  
 22 applicants for policies and creditors, or the trustee, receiver, or assignee  
 23 of the proposed company duly appointed in any proceedings in any  
 24 court of competent jurisdiction in the state in accordance with their  
 25 respective rights in case the organization of the proposed company  
 26 should not be completed and a certificate of authority should not be  
 27 procured from the department.

28 (c) Whenever the incorporators have filed their certified copy of the  
 29 articles of incorporation and bond as provided in this section, then the  
 30 department may issue a permit for completion of organization. The  
 31 company shall have authority under such permit to solicit subscriptions  
 32 and payments for capital stock, if a stock company, and applications  
 33 and advance premiums for insurance, if a mutual company, and to  
 34 exercise such powers, subject to the limitations in this article  
 35 prescribed, as may be necessary and proper in completing its  
 36 organization and qualifying itself for a certificate of authority from the  
 37 department to make the kind or kinds of insurance proposed in its  
 38 articles of incorporation, provided that such company shall not issue  
 39 policies or enter into contracts of insurance until it shall have received  
 40 the certificate of the department authorizing it so to do.

41 SECTION 377. IC 27-1-6-13 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13. Any company



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1 organized under this article shall not transact any business or incur any  
2 indebtedness until:

3 (a) one (1) of the triplicate copies of the articles of incorporation,  
4 bearing the approval of the department and the attorney general  
5 and the ~~endorsement of the~~ approval of the ~~secretary of state,~~  
6 **department of commerce**, as provided in section 10 of this  
7 chapter has been filed for record with the county recorder of the  
8 county in which the principal office is located; and

9 (b) a certified copy of the permit for completion of organization,  
10 issued pursuant to section 11 of this chapter, shall be filed for  
11 record with the county recorder of the county in which the  
12 principal office is located, which certified copy shall be evidence  
13 only that the company has been authorized to proceed in the  
14 completion of its organization.

15 If a company transacts any business or incurs any indebtedness in  
16 violation of this section, the officers who participated therein and the  
17 directors, except those who dissented therefrom and caused their  
18 dissent to be filed at the time in the principal office of the company or  
19 who, being absent, filed their dissent upon learning of the action, shall  
20 be severally liable for the debts or liabilities of the company so  
21 incurred or arising therefrom.

22 SECTION 378. IC 27-1-7-3 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. Each  
24 corporation shall maintain an office or place of business in this state,  
25 to be known as the "Principal Office." The post-office address of the  
26 principal office shall be stated in the original articles of incorporation  
27 at the time of incorporating. Thereafter, the location of the principal  
28 office, may be changed at any time or from time to time when  
29 authorized by the board of directors by filing with the department and  
30 ~~secretary of state, the department of commerce~~ on or before the day  
31 any change is to take effect, a certificate signed by the president or a  
32 vice-president and the secretary or an assistant secretary of the  
33 corporation, and verified under oath, stating the change to be made and  
34 reciting that such change is made pursuant to authorization by the  
35 board of directors.

36 SECTION 379. IC 27-1-8-3 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) Except as  
38 provided in subsection (b), an amendment to the articles of  
39 incorporation so proposed shall be submitted to a vote of the  
40 shareholders, members, or policyholders at the annual or at the special  
41 meeting directed by the resolution of the board of directors proposing  
42 the amendment, and the proposed amendment shall be adopted upon

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receiving the affirmative votes of at least a majority of the stock, or such greater portion as the articles of incorporation may require, of the outstanding shares of stock entitled to vote, if a stock company; and upon receiving the affirmative votes of at least two-thirds (2/3) of the members or policyholders voting at such annual or special meeting, if other than a stock company.

(b) Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one (1) or more amendments to the corporation's articles of incorporation without shareholder, member, or policyholder action to:

(1) extend the duration of the corporation, if the corporation was incorporated at a time when limited duration was required by law;

(2) delete the names and addresses of the initial directors, officers, or incorporators;

(3) delete the name and address of the initial registered agent or registered or principal office, if a statement of change is on file with the ~~secretary of state~~; **department of commerce**;

(4) change each issued and unissued authorized share of an outstanding class into a greater number of whole shares or a lesser number of whole shares and fractional shares if the corporation has only shares of that class outstanding;

(5) reduce the number of authorized shares solely as the result of a cancellation of treasury shares; or

(6) change the corporate name, if the new name complies with IC 27-1-6-3.

(c) If a corporation changes its name under subsection (b)(6), the corporation shall, not more than thirty (30) days after the effective date of the amendment changing the corporate name, mail or deliver a written or printed notice of the new corporate name to each shareholder, member, or policyholder of record of the corporation.

SECTION 380. IC 27-1-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. When the articles of amendment have been approved by the attorney-general and returned to the department, then the department shall present the same to the ~~secretary of state for the state of Indiana~~; **department of commerce**. If the ~~secretary of state~~ **department of commerce** finds that the articles conform to law, ~~he the department~~ shall ~~indorse his~~ **indicate** approval upon each of the triplicate copies of the articles, and when all fees have been paid as required by law, ~~he the department of commerce~~ shall file one (1) copy ~~in his office with the department of commerce~~ and shall return the other two (2) copies of the articles of amendment bearing the ~~indorsement of his department of commerce's~~



1 approval, to the corporation, one (1) of which copies the corporation  
2 shall file with the department.

3 SECTION 381. IC 27-1-8-11 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 11. (a) A  
5 corporation whose articles of incorporation have been amended in  
6 accordance with the provisions of this chapter shall not exercise any  
7 power, right, or authority conferred by, or take any action pursuant to,  
8 such amendment until:

9 (1) the corporation shall have filed one (1) of the triplicate copies  
10 of the articles of amendment, bearing the ~~endorsement of the~~  
11 approval of the ~~secretary of state~~ **department of commerce** as  
12 provided in section 8 of this chapter, for record in the office of the  
13 county recorder of the county in which the articles of  
14 incorporation of such corporation were or should have been filed  
15 for record as provided in IC 27-1-6-13; and

16 (2) the company shall have filed a certified copy of such amended  
17 certificate of authority for record with the county recorder of the  
18 county wherein the principal office is located, which certified  
19 copy shall be evidence only that the company is authorized and  
20 licensed to transact the kind or kinds of insurance set out therein,  
21 for the period stated therein.

22 (b) If a corporation exercises any such power, right, or authority, or  
23 takes any such action, in violation of this section, the officers and  
24 directors who participated therein shall be severally liable for any debts  
25 or liabilities of the corporation incurred thereby or arising therefrom.

26 SECTION 382. IC 27-1-8-13 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13. (a) Any  
28 domestic mutual insurance company may by amendment of its articles  
29 of incorporation convert to a stock insurance company only upon  
30 compliance with the requirements of this section and applicable  
31 requirements of sections 1 through 8 and 11 of this chapter.

32 (b) The board of directors of any such mutual company shall first  
33 adopt a resolution proposing the amendment to its articles of  
34 incorporation, as required by section 2 of this chapter, and proposing  
35 a plan of conversion of such mutual company into a stock insurance  
36 company. Such plan of conversion shall set forth the following:

37 (1) The terms and conditions of the plan of conversion and the  
38 manner and basis of carrying the same into effect.

39 (2) A formula for the determination of the equity, if any, of each  
40 member or policyholder in the entire net worth of the company  
41 and for the determination and preservation of the participation  
42 rights, if any, in future earnings from each class of existing

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1 insurance policies.

2 (3) A statement of the entire net worth of the company attested by  
3 two (2) independent actuaries, each of whom is a member of the  
4 American Academy of Actuaries, and written opinions by such  
5 actuaries that the formula and procedure required in subdivision  
6 (2) is fair and equitable to the members and policyholders of the  
7 company.

8 (4) That the members or policyholders entitled to participate in  
9 the conversion, as provided in the plan, shall include all members  
10 and policyholders of the company who have voting rights as of the  
11 effective date of the amendment and the plan of conversion.

12 (5) That the members and policyholders of the company, as  
13 defined in subdivision (4), shall have the first right to acquire all  
14 the proposed initial issue of capital stock of the company by a fair  
15 allocation of the rights to acquire such stock among such  
16 members or policyholders, provided that such right to acquire  
17 such shares shall be exercised within a designated reasonable  
18 period, which period shall not be less than thirty (30) days, with  
19 the right to apply the amount of equity, if any, as determined  
20 under the formula in subdivision (2) upon the purchase price of  
21 such shares; provided, further, that the right shall be exercised by  
22 a written election in a form provided by the company, and  
23 payment for any balance due upon such shares, after the aforesaid  
24 credit, if any, shall be made in cash within such time as is fixed  
25 in the plan.

26 (6) That any shares not acquired by a member or policyholder, as  
27 provided in subdivision (5), may be offered to others who may or  
28 may not be members or policyholders at the same or a higher  
29 price per share than that provided for under subdivision (5).

30 (7) That at a time specified in the plan, payment to each  
31 dissenting member or policyholder shall be made in cash of the  
32 amount, if any, as provided under the plan for payment to  
33 dissenting members or policyholders, such dissenting members or  
34 policyholders being those who do not acquire shares as provided  
35 in subdivision (5).

36 (8) Such other terms and provisions as the company deems  
37 necessary or desirable.

38 (c) Any such mutual insurance company shall file with the  
39 department, following the adoption by its board of directors of such  
40 resolution proposing the amendment and plan of conversion, and  
41 before its submission to a vote by its members or policyholders, three  
42 (3) copies of the proposed amendment to the articles of incorporation,

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1 together with three (3) copies of the plan of conversion and such other  
 2 supporting documents as the company deems necessary.

3 (d) The insurance commissioner shall hold a hearing upon the  
 4 terms, conditions, and provisions of the plan of conversion, at which  
 5 hearing the policyholders of the company and any other interested party  
 6 shall have the right to appear and become a party to the proceedings.  
 7 The commissioner shall require the company to produce such evidence  
 8 as he shall deem necessary to establish that the plan of conversion  
 9 meets the requirements set forth in this section and further that it is fair  
 10 and equitable to the members and policyholders of the company. Such  
 11 hearing shall be commenced not less than twenty (20) days after the  
 12 date on which the amendment and plan of conversion are presented to  
 13 the department, and shall be held in the city of Indianapolis, Indiana,  
 14 at such place, date, and time as the department shall specify. Notice of  
 15 the hearing shall be published in a newspaper of general circulation in  
 16 the city wherein is located the principal office of the company and in  
 17 the city of Indianapolis once a week for two (2) successive weeks.  
 18 Written notice of the hearing shall be mailed by the company to its  
 19 members and policyholders having voting rights at least ten (10) days  
 20 prior to the hearing. Except as otherwise provided in this section, the  
 21 hearing and the determination made therein shall be subject to  
 22 IC 4-21.5-3.

23 (e) The commissioner shall issue an order approving the plan of  
 24 conversion as filed with the department by the company with such  
 25 modifications therein as a majority of the board of directors of the  
 26 company shall approve if the commissioner finds that:

- 27 (1) the plan, including all such modifications, if effected, will
- 28 meet all the requirements set forth in this section;
- 29 (2) such plan is equitable to the members and policyholders of the
- 30 company;
- 31 (3) the terms and conditions of the plan of conversion are fair and
- 32 reasonable;
- 33 (4) upon consummation of the plan of conversion the paid-in
- 34 capital and surplus of the company shall be in an amount not less
- 35 than the minimum paid-in capital and surplus required to organize
- 36 a domestic stock insurance company to transact like kinds of
- 37 insurance; and
- 38 (5) all the rights of every member and policyholder as fixed in any
- 39 policy of insurance of the company, excluding voting rights, if
- 40 any, shall be and remain unaffected by the proposed conversion
- 41 and shall continue in full force in accordance with the terms of the
- 42 policy of each such member and policyholder.



(f) The order of the commissioner approving or disapproving the plan of conversion shall be filed in the department within thirty (30) days after the last day of the hearing before the commissioner. The department shall promptly give notice of such order to all persons who appeared at the hearing and requested to be made parties to the proceedings, and the department shall endorse the commissioner's approval or disapproval on the plan of conversion in the manner provided in IC 27-1-6-8 and shall deliver copies thereof to the company. The company or any person who was made a party to such proceedings aggrieved by such order shall be entitled to a judicial review thereof in accordance with IC 4-21.5-5. Subject only to such judicial review, the determination and order of the commissioner (or the court upon judicial review) in approving or disapproving the plan of conversion shall be binding and conclusive upon all parties to the proceedings and all policyholders or members with respect to the fairness of the plan and its compliance with this article and with respect to the proportionate share, if any, of each policyholder or member in the equity of the company and the value of his membership interests or rights as determined under the formula referred to in subsection (b)(2).

(g) The plan of conversion and the proposed amendment to the articles of incorporation, as finally approved, shall be submitted to a vote of the members or policyholders, as provided in section 3 of this chapter, and if the proposed plan of conversion and proposed amendment shall be adopted as provided in section 3 of this chapter, the company shall proceed to consummate the plan of conversion and comply with the applicable provisions of sections 4 through 8 and 11 of this chapter.

(h) Notwithstanding the adoption of the plan of conversion by the policyholders and at any time prior to the effective date of the plan of conversion, the plan and proposed amendment may be abandoned pursuant to a provision for such abandonment, if any, contained in the plan of conversion.

(i) The plan of conversion and proposed amendment to the articles of incorporation shall become effective upon the later of:

(1) the date and time of approval of the articles of amendment by the ~~secretary of state~~ **department of commerce** as provided in section 8 of this chapter; and

(2) the date and time of filing with the department a certificate setting forth the plan of conversion and the manner of its approval by the directors and policyholders of the company, which shall be executed on behalf of the company by its president or a vice president;



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1 unless a later date and time is specified in the plan of conversion, in  
 2 which event the plan of conversion and amendment shall become  
 3 effective and take place upon such later date and time.

4 (j) When the plan of conversion and proposed amendment to the  
 5 articles of incorporation become effective:

6 (1) the company shall be converted from a mutual insurance  
 7 company to a stock insurance company and shall have all the  
 8 rights, privileges, immunities, and powers and shall be subject to  
 9 all the duties and liabilities of a stock insurance company existing  
 10 under this article; and

11 (2) the rights and interests of every member and policyholder  
 12 existing by virtue of being a member or policyholder of the  
 13 mutual company, of any nature whatsoever, including voting  
 14 rights, shall cease.

15 Provided, however, that rights of every member and policyholder under  
 16 any contract of insurance shall continue in force in accordance with the  
 17 terms, provisions, and conditions of such contract, including rights, if  
 18 any, to policyholder dividends.

19 SECTION 383. IC 27-1-9-3 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) Any  
 21 domestic corporation may merge with any other corporation or  
 22 corporations, subject to the provisions of sections 1 and 2 of this  
 23 chapter, in the following manner. The board of directors of each  
 24 corporation shall, by a resolution adopted by a majority vote of the  
 25 members of such board, approve a joint agreement of merger setting  
 26 forth:

27 (1) the names of the corporations proposed to merge, and the  
 28 name of the corporation into which they propose to merge, which  
 29 is designated in this section as the surviving corporation;

30 (2) the terms and conditions of the proposed merger and the mode  
 31 of carrying the same into effect;

32 (3) the manner and basis, if any, of converting the shares of each  
 33 stock corporation, other than the surviving corporation into shares  
 34 or other securities or obligations of the surviving corporation, or,  
 35 in whole or in part, into cash, property, shares, or other securities  
 36 or obligations of any corporation;

37 (4) a restatement of such provisions of the articles of  
 38 incorporation of the surviving corporation as may be deemed  
 39 necessary or advisable to give effect to the proposed merger; and

40 (5) such other provisions with respect to the proposed merger as  
 41 are deemed necessary or desirable.

42 Unless shareholder, member, or policyholder approval is not required

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1 by subsection (i), the resolution of the board of directors of each  
2 corporation approving the agreement shall direct that the agreement be  
3 submitted to a vote of the shareholders, members, or policyholders of  
4 such corporation entitled to vote in respect thereof at a designated  
5 meeting thereof, which may be an annual meeting of shareholders,  
6 members, or policyholders, or a special meeting of the shareholders,  
7 members, or policyholders entitled to vote in respect thereof. If the  
8 designated meeting of any corporation at which the agreement is to be  
9 submitted is an annual meeting, notice of the submission of the  
10 agreement shall be included in the notice of such annual meeting. If the  
11 designated meeting of any corporation at which the agreement is to be  
12 submitted is a special meeting of the shareholders, members, or  
13 policyholders entitled to vote in respect thereof, such special meeting  
14 shall be called by the resolution designating the meeting, and notice of  
15 such meeting shall be given at the time and in the manner provided in  
16 IC 27-1-7-7.

17 (b) Unless shareholder, member, or policyholder approval is not  
18 required by subsection (i), the agreement of merger so approved shall  
19 be submitted to a vote of the shareholders, members, or policyholders  
20 of each corporation entitled to vote in respect thereof at the meeting  
21 directed by the resolution of the board of directors of such corporation  
22 approving the agreement, and the agreement shall be adopted by such  
23 corporation upon receiving the affirmative vote of such proportion of  
24 the shareholders, members, or policyholders as provided in section 8  
25 of this chapter.

26 (c) Unless shareholder, member, or policyholder approval is not  
27 required by subsection (i), within five (5) days after the agreement of  
28 merger shall be adopted by any corporation, the secretary of such  
29 corporation shall mail or deliver a written or printed notice of the  
30 adoption of the agreement to each shareholder, member, or  
31 policyholder of record of such corporation who was not present in  
32 person or represented by proxy at the meeting at which the agreement  
33 was adopted. And the corporation shall file an affidavit with the  
34 department, signed by the president and secretary of such corporation,  
35 that such notice was given.

36 (d) Unless shareholder, member, or policyholder approval is not  
37 required by subsection (i), any shareholder, member, or policyholder  
38 of any such corporation who did not vote in favor of the adoption of the  
39 agreement of merger may object to such merger in the manner and with  
40 the effect provided in sections 9 and 10 of this chapter.

41 (e) Unless shareholder, member, or policyholder approval is not  
42 required by subsection (i), as soon as practicable after the expiration of

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a period of thirty (30) days after the adoption of the agreement of merger by the shareholders, members, or policyholders of that one (1) of the merging corporations which is the last, in point of time, to adopt the same, the agreement shall again be considered by the board of directors of each corporation a party thereto, at a regular or special meeting of such board, and if the board of directors of each such corporation, by a majority vote of the members of such board, shall again approve the agreement and shall authorize the execution thereof, the agreement shall be signed on behalf of each such corporation by its president or a vice president and its secretary or an assistant secretary and shall have the corporate seal of each such corporation thereto affixed.

(f) Upon the execution of the agreement of merger by all of the corporations parties thereto, there shall be executed and filed, in the manner provided in this section, articles of merger setting forth the agreement of merger, the signatures of the several corporations parties thereto, the manner of its adoption, and the vote, if any, by which adopted by each of such corporations. The articles of merger shall be signed on behalf of each such corporation by its president or a vice president and its secretary or an assistant secretary, and acknowledged before a notary public by the officers signing the same, in such multiple copies as shall be required to enable the corporations to comply with the provisions of this chapter with respect to filing and recording the articles of merger, and shall then be presented to the department at its office. The department is hereby authorized to approve or disapprove the articles of merger. In the event that the department shall approve the articles of merger, it shall endorse its approval thereon in the manner provided in IC 27-1-6-8, and it shall present the same to the ~~secretary of state of the state of Indiana at his office:~~ **department of commerce.**

(g) Upon the presentation of the articles of merger, the ~~secretary of state;~~ **department of commerce,** if ~~he finds that they~~ **the articles** conform to law, shall ~~endorse his~~ **indicate** approval on each of the multiple copies of the articles and, when all fees have been paid as required by law, shall file one (1) copy of the articles of merger ~~in his office with the department of commerce~~ **and** issue a certificate of merger and shall return the remaining copies of the articles bearing the ~~endorsement of his~~ approval, together with the certificate of merger, to the surviving corporation or its representatives.

(h) The surviving corporation shall obtain a certified copy of the certificate of merger from the ~~secretary of state~~ **department of commerce** and file the same with the department, accompanied by a



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copy of the articles of merger bearing the ~~endorsement and approval of the secretary of state.~~ **department of commerce.**

(i) If a domestic corporation is the surviving corporation, action by the shareholders, members, or policyholders is not required if the articles of incorporation of the surviving corporation will not differ (except for amendments enumerated in IC 27-1-8-3(b)) from its articles before the merger and:

(1) if the corporation is a stock corporation:

(A) each shareholder of the surviving corporation whose shares were outstanding immediately before the merger will hold the same proportionate number of shares relative to the number of shares held by all shareholders (except for shares of the surviving corporation received solely as a result of the shareholder's proportionate shareholdings in the other corporations participating in the merger) with identical designations, preferences, limitations, and relative rights, immediately after the merger;

(B) the number of voting shares outstanding immediately after the merger, including the number of voting shares issuable as a result of the merger (either by the conversion of securities issued under the merger or the exercise of rights and warrants issued under the merger), will not exceed by more than twenty percent (20%) the total number of voting shares (adjusted to reflect any forward or reverse share split that occurs under the plan of merger) of the surviving corporation outstanding immediately before the merger; and

(C) the number of participating shares outstanding immediately after the merger, including the number of participating shares issuable as a result of the merger (either by conversion of securities issued under the merger or the exercise of rights and warrants issued under the merger), will not exceed by more than twenty percent (20%) the total number of participating shares (adjusted to reflect any forward or reverse share split that occurs under a plan of merger) outstanding immediately before the merger; or

(2) if the surviving corporation is an insurance company other than a stock corporation:

(A) each member or policyholder of the surviving corporation will retain the same contractual and other rights to which the member or policyholder was entitled before the merger; and

(B) the number of votes of voting members immediately after the merger, including the number of votes of voting members

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1 added as a result of the merger, will not exceed by more than  
 2 twenty percent (20%) the total number of votes of voting  
 3 members of the surviving corporation immediately before the  
 4 merger.

5 SECTION 384. IC 27-1-9-4 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. Any domestic  
 7 corporation may consolidate with any other corporation or  
 8 corporations, subject to the provisions of sections 1 and 2 of this  
 9 chapter, in the following manner:

10 (a) Agreement of Consolidation. The board of directors of each  
 11 corporation shall, by a resolution adopted by a majority vote of the  
 12 members of such board, approve a joint agreement of consolidation  
 13 setting forth:

14 (1) The names of the corporations proposing to consolidate, and the  
 15 name of the new corporation into which they proposed to consolidate,  
 16 which is hereinafter designated as the new corporation;

17 (2) The terms and conditions of the proposed consolidation and the  
 18 mode of carrying the same into effect;

19 (3) The manner and basis, if any, of converting the shares of each  
 20 stock corporation into shares of other securities or obligations of the  
 21 new corporation, or, in whole or in part, into cash, property, shares, or  
 22 other securities or obligations of any other corporation;

23 (4) With respect to the new corporation, all of the statements  
 24 required by IC 1971, 27-1-6-4 to be set forth in original articles of  
 25 incorporation for corporations formed under this article; and

26 (5) Such other provisions with respect to the proposed consolidation  
 27 as are deemed necessary or desirable;

28 (b) Adoption of Agreement. The agreement of consolidation shall  
 29 then be submitted to a vote of the shareholders, members or  
 30 policyholders entitled to vote in respect thereof of each corporation in  
 31 the same manner as provided in section 3 of this chapter and this  
 32 agreement shall be adopted by such corporation upon receiving the  
 33 affirmative vote of such proportion of the shareholders, members or  
 34 policyholders, as provided in section 8 of this chapter; and the adoption  
 35 thereof by directors and by the shareholders, members or policyholders  
 36 shall be followed by the same notice to shareholders, members or  
 37 policyholders as hereinabove provided in paragraphs (a), (b) and (c) of  
 38 section 3 of this chapter in case of a merger.

39 (c) Objections. Any shareholder, member or policyholder, of any  
 40 such corporation who did not vote in favor of the adoption of the  
 41 agreement of consolidation, may object to such consolidation in the  
 42 manner and with the effect provided in sections 9 and 10 of this

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1 chapter.

2 (d) Reapproval and Execution of Agreement. Upon the adoption of  
3 the agreement of consolidation it shall again be considered by the  
4 board of directors of each corporation a party to the agreement, and, if  
5 again approved and the execution of the agreement authorized by such  
6 board, the agreement shall be signed and filed, all in the same manner  
7 and within the same time as provided in subsection (e) of section 3 of  
8 this chapter.

9 (e) Articles of Consolidation. Under the execution of the agreement  
10 of consolidation by all of the corporations parties thereto, articles of  
11 consolidation shall be executed and filed, accompanied by the fees  
12 prescribed by law in the same manner and form and in such multiple  
13 copies as provided in subsection (f) of section 3 of this chapter.

14 (f) Certificate of Consolidation and Incorporation. Upon the  
15 presentation of the articles of consolidation, the ~~secretary of state;~~  
16 **department of commerce**, if ~~he finds that they~~ **the articles** conform  
17 to law, shall ~~indorse his~~ **indicate** approval on each of the multiple  
18 copies of the articles, and, when all fees have been paid as required by  
19 law, shall file one (1) copy of the articles of consolidation ~~in his office~~  
20 **with the department of commerce** and issue a certificate of  
21 consolidation and incorporation, and shall return the remaining copies  
22 of the articles bearing the indorsement of his approval, together with  
23 the certificate of consolidation and incorporation, to the new  
24 corporation, or its representatives.

25 (g) Filing Certificate. The surviving corporation shall obtain a  
26 certified copy of the certificate of consolidation and incorporation from  
27 the ~~secretary of state~~ **department of commerce** and file the same with  
28 the department, accompanied by a copy of the articles of consolidation  
29 bearing the ~~indorsement of the~~ approval of the ~~secretary of state;~~  
30 **department of commerce**.

31 SECTION 385. IC 27-1-9-5 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. Upon the  
33 issuance of a certificate of merger or a certificate of consolidation and  
34 incorporation by the ~~secretary of state;~~ **department of commerce**, the  
35 merger or consolidation, as the case may be, shall be effected, subject  
36 to the rights of dissenting shareholders, members, or policyholders, as  
37 provided in sections 9 and 10 of this chapter.

38 SECTION 386. IC 27-1-9-6 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. The surviving  
40 or new corporation, as the case may be, resulting from a merger or  
41 consolidation, shall within ten (10) days after such merger or  
42 consolidation has become effective as hereinabove provided, file for

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record with the county recorder of each county in which the principal office of any of the corporations parties to the agreement is located, and of each county in this state in which any of such corporations shall have real property at the time of such merger or consolidation the title to which will be transferred by the merger or consolidation, a certified copy of the certificate of merger or certificate of consolidation and incorporation, as the case may be, accompanied by one (1) of the copies of the articles of merger or articles of consolidation, bearing the ~~indorsement of the~~ approval of the ~~secretary of state,~~ **department of commerce** as the case may be.

SECTION 387. IC 27-1-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. With the approval in writing of the department, the incorporators named in the articles of incorporation of any corporation organized under the provisions of this article may surrender the certificate of incorporation and all of the corporate rights and franchises of the corporation at any time within one (1) year from the date of the issuance of the certificate and before the issuance of any of the shares of capital stock of the corporation and before the beginning by it of the business for which it was formed, by presenting to the ~~secretary of state at his office,~~ **department of commerce**, accompanied by the fees prescribed by law, a certificate in triplicate, signed and verified by the joint and several oaths of a majority of the incorporators in the form prescribed by the ~~secretary of state,~~ **department of commerce**, showing that no shares of the capital stock of the corporation have been issued and that the amount, if any, actually paid in on the shares, less any part thereof disbursed for necessary expenses, had been returned to those entitled thereto, that such business has not been begun, that no debts remain unpaid, and that they surrender all rights and franchises.

SECTION 388. IC 27-1-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. Then the department shall present the same to the ~~secretary of state for the state of Indiana,~~ **department of commerce**. If the ~~secretary of state~~ **department of commerce** finds that the articles of dissolution and proof of publication conform to law ~~he the department of commerce~~ shall ~~indorse his~~ **indicate** approval upon each of the triplicate copies of the articles, and the proof of publication, and when all fees have been paid as required by law, ~~he the department of commerce~~ shall file one (1) copy of the articles of dissolution and the proof of publication ~~in his office~~ **with the department of commerce** and issue a certificate of dissolution to the corporation, and shall return the certificate of dissolution to the corporation together with the two (2)



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1 remaining copies of the articles of dissolution, bearing the ~~indorsement~~  
2 ~~of his~~ approval, to the corporation or its representatives.

3 SECTION 389. IC 27-1-10-7 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) The  
5 corporation shall then file a certified copy of the articles of dissolution  
6 with the department, and present to the department its certificate of  
7 authority issued or renewed under IC 27-1-6-18 for cancellation. The  
8 department shall file the certified copy of the articles of dissolution and  
9 shall cancel the said certificate of authority and endorse the  
10 cancellation thereon, and return the cancelled certificate of authority to  
11 the corporation or its representatives.

12 (b) The corporation shall then file for record with the county  
13 recorder of the county in which the articles of incorporation were or  
14 should have been recorded, as provided in IC 27-1-6-13, one (1) of the  
15 triplicate originals of the articles of dissolution bearing the  
16 ~~endorsement of the~~ approval of the ~~secretary of state~~ **department of**  
17 **commerce** as provided for in section 6 of this chapter.

18 SECTION 390. IC 27-1-11-4 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) Upon the  
20 approval and adoption thereof, the articles of reorganization shall be  
21 filed in triplicate originals, in the form prescribed by the department,  
22 by the president or a vice president and the secretary or an assistant  
23 secretary of the corporation, and acknowledged and sworn to before a  
24 notary public by the officer signing the same and shall be presented in  
25 triplicate to the department at its office.

26 (b) The department is hereby authorized, in its discretion, to  
27 approve or disapprove the articles of reorganization, and if the  
28 department shall approve the articles of reorganization it shall endorse  
29 its approval thereon as required in IC 27-1-6-8 and present the same to  
30 the ~~secretary of state for the state of Indiana for his~~ **department of**  
31 **commerce's** approval.

32 SECTION 391. IC 27-1-11-5 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. Upon the  
34 presentation of the articles of reorganization, the ~~secretary of state;~~  
35 **department of commerce**, if ~~he finds they the~~ **articles** conform to law,  
36 shall ~~indorse his~~ **indicate** approval on each of the triplicate copies of  
37 the articles, and when all fees have been paid as required by law, shall  
38 file one (1) copy of the articles ~~in his office; with the~~ **department of**  
39 **commerce**, issue a certificate of reorganization, and return two (2)  
40 copies of the articles of reorganization, bearing the ~~indorsement of his~~  
41 approval, together with the certificate of reorganization to the  
42 corporation or its representatives.



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SECTION 392. IC 27-1-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) The corporation shall then file a certified copy of the articles of reorganization with the department and present to the department its certificate of authority issued or renewed under IC 27-1-6-18 for cancellation. The department shall file the certified copy of articles of reorganization and shall cancel the said certificate of authority and endorse the cancellation thereon, and issue a new certificate of authority to the corporation under the provisions of IC 27-1-6-18.

(b) The corporation shall then file for record with the county recorder of the county in which the principal office of the corporation is located, one (1) of the triplicate copies of the articles of reorganization bearing the ~~endorsement of the approval of the secretary of state~~ **department of commerce** as provided for in section 5 of this chapter.

(c) A corporation which is reorganized in accordance with the provisions of this chapter shall not exercise any new power, right, or authority conferred by, or take any action pursuant to, such reorganization until subsections (a) and (b) have been complied with. If a corporation exercises any such new power, right, or authority or takes any such action in violation of this section, the officers and directors who participated therein shall be severally liable for any debts or liabilities of the corporation incurred thereby or arising therefrom.

SECTION 393. IC 27-1-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. Upon the issuance of the certificate of reorganization by the ~~secretary of state;~~ **department of commerce**, the filing for record of the articles with the department and the county recorder as provided in section 6 of this chapter, and the issuance of the new certificate of authority provided for in section 6 of this chapter:

- (1) the reorganization shall become effective;
- (2) the corporation shall be entitled to all of the rights, privileges, immunities, powers, and franchises and be subject to all of the penalties, liabilities, and restrictions by the provisions of this article granted to or imposed upon corporations organized under this article; and
- (3) the articles of incorporation or organization shall be deemed to be amended to the extent, if any, that any provision or provisions of such articles shall be restated in the articles of reorganization as provided by section 2 of this chapter.

SECTION 394. IC 27-1-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. The articles of



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1 reorganization shall be presented to the department, accompanied by  
 2 a certified copy of the resolution of the board of directors adopting and  
 3 approving the same, signed by the president and secretary of the  
 4 company. The department may approve or disapprove the articles of  
 5 reorganization, in the same manner as provided in IC 27-1-6-8. In the  
 6 event the department approves the articles of reorganization as  
 7 provided, it shall then submit them to the attorney general for the state  
 8 of Indiana, who shall examine such articles and endorse his approval  
 9 thereon and return them to the department in the same manner as  
 10 provided in IC 27-1-6-9. When the articles of reorganization have been  
 11 approved by the attorney general and returned to the department, the  
 12 department shall present them to the ~~secretary of state for the state of~~  
 13 ~~Indiana, who~~ **department of commerce. The department of**  
 14 **commerce** shall ~~endorse his~~ **indicate** approval thereon in the same  
 15 manner as provided in IC 27-1-6-10 and file one (1) copy ~~in his office~~  
 16 **with the department of commerce** and return the other two (2) copies  
 17 to the company or its representatives.

18 SECTION 395. IC 27-1-19-6 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. Upon  
 20 compliance with the provisions of this article, the entire assets of any  
 21 such corporation shall thereby become vested in the new corporation.  
 22 The name of the new corporation may be the same as the former  
 23 corporation, or, upon resolution of the board of trustees or directors or  
 24 other governing body, such name may be changed. If such corporation  
 25 shall be the owner of any real estate situate in said state of Indiana or  
 26 of any other state, such real estate shall become vested, upon  
 27 compliance with this statute, in the new corporation, and a copy of such  
 28 resolution, duly certified by the ~~secretary of state~~ **department of**  
 29 **commerce** and filed in the recorder's office of the proper county in  
 30 which such real estate may be situated, shall constitute a conveyance  
 31 of said real estate to said new corporation.

32 SECTION 396. IC 27-1-20-13 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13. The fees  
 34 payable to the ~~secretary of the state~~ **department of commerce** by  
 35 insurance companies which are organized or reorganized under the  
 36 laws of this state or the laws of any other state, territory or insular  
 37 possession of the United States or the District of Columbia shall be the  
 38 same as the fees prescribed in chapter 219 of the Acts of the General  
 39 Assembly of 1929.

40 SECTION 397. IC 27-1-20-15 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. If any  
 42 company, whether organized under the provisions of this article or of

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1 any statute enacted prior to March 8, 1935, for the purpose of making  
 2 any kind or kinds of insurance, does not complete its organization and  
 3 proceed with the transaction of business, pursuant to the provisions of  
 4 the statute under which it is organized, within a period of one (1) year  
 5 after its articles of incorporation or its organization shall have been  
 6 approved and filed ~~in with the office of the secretary of state;~~  
 7 **department of commerce**, the approval so given shall be deemed to  
 8 be revoked and such articles of incorporation or such organization shall  
 9 be null and void.

10 SECTION 398. IC 27-3-2-5 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. And thereupon,  
 12 when all of said stock shall have been subscribed, a statement shall be  
 13 filed with the ~~secretary of state;~~ **department of commerce**, and that  
 14 officer shall give to such company a certificate of incorporation under  
 15 his seal of office, declaring the corporate name of such company, the  
 16 amount of capital stock, and the amount of securities deposited with the  
 17 auditor of state, as hereinafter provided, the names of the directors who  
 18 are to conduct the business of the company for the first year, and  
 19 henceforth upon the payment to such officer of the fee provided by law  
 20 to be paid for the incorporation of joint stock companies; and said  
 21 company shall then become a body corporate, with the power and  
 22 authority to sue and be sued as such, in any proper court, and such  
 23 company may carry on the business of insuring property against loss or  
 24 damage by fire, in a manner not inconsistent with the laws of this state,  
 25 as a stock company: Provided, however, That before such company  
 26 shall issue any policies of insurance, such company shall deposit in the  
 27 office of the auditor of state of Indiana, stocks, bonds or notes to be  
 28 approved by said auditor, to the amount of twenty-five per cent (25%)  
 29 of the capital stock of said company, the interest on which is to be paid  
 30 to said company: Provided, That the securities so held may be replaced  
 31 by other securities to be first approved by said auditor, when by reason  
 32 of their maturity or other good cause, it shall seem necessary or proper  
 33 for the best interest of such company to replace them.

34 SECTION 399. IC 27-4-5-4 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) Any act of  
 36 transacting an insurance business as set forth in section 2 of this  
 37 chapter by any unauthorized insurer is equivalent to and shall  
 38 constitute an irrevocable appointment by such insurer, binding upon  
 39 him, his executor or administrator, or successor in interest if a  
 40 corporation, of the ~~secretary of state or his successor in office;~~ **attorney**  
 41 **general**, to be the true and lawful attorney of such insurer upon whom  
 42 may be served all lawful process in any action, suit, or proceeding in

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any court by the commissioner of insurance or by the state and upon whom may be served any notice, order, pleading, or process in any proceeding before the commissioner of insurance and which arises out of transacting an insurance business in this state by such insurer. Any act of transacting an insurance business in this state by any unauthorized insurer shall be signification of its agreement that any such lawful process in such court action, suit, or proceeding and any such notice, order, pleading, or process in such administrative proceeding before the commissioner of insurance so served shall be of the same legal force and validity as personal service of process in this state upon such insurer.

(b) Service of process in such action shall be made by delivering to and leaving with the ~~secretary of state~~, **attorney general**, or some person in apparent charge of his office, two (2) copies thereof and by payment to the ~~secretary of state~~ **attorney general** of the fee prescribed by law. Service upon the ~~secretary of state~~ **attorney general** as such attorney shall be service upon the principal.

(c) The ~~secretary of state~~ **attorney general** shall forthwith forward by certified mail one (1) of the copies of such process or such notice, order, pleading, or process in proceedings before the commissioner to the defendant in such court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at its last known principal place of business and shall keep a record of all process so served on him which shall show the day and hour of service. Such service is sufficient, provided:

(1) notice of such service and a copy of the court process or the notice, order, pleading, or process in such administrative proceeding are sent within ten (10) days thereafter by certified mail by the plaintiff or the plaintiff's attorney in the court proceeding or by the commissioner of insurance in the administrative proceeding to the defendant in the court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at the last known place of business of the defendant in the court or administrative proceeding; and

(2) the defendant's receipt or receipts issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed, and an affidavit of the plaintiff or the plaintiff's attorney in court proceeding or of the commissioner of insurance in administrative proceeding, showing compliance therewith are filed with the clerk of the court in which such

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1 action, suit, or proceeding is pending or with the commissioner in  
 2 administrative proceedings, on or before the date the defendant in  
 3 the court or administrative proceeding is required to appear or  
 4 respond thereto, or within such further time as the court or  
 5 commissioner of insurance may allow.

6 (d) No plaintiff shall be entitled to a judgment or a determination by  
 7 default in any court or administrative proceeding in which court  
 8 process or notice, order, pleading, or process in proceedings before the  
 9 commissioner of insurance is served under this section until the  
 10 expiration of forty-five (45) days from the date of filing of the affidavit  
 11 of compliance.

12 (e) Nothing in this section shall limit or affect the right to serve any  
 13 process, notice, order, or demand upon any person or insurer in any  
 14 other manner permitted by law.

15 SECTION 400. IC 27-5-9-2 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. The persons  
 17 desiring to organize an insurance company under this chapter shall  
 18 unite in articles of association setting forth the name of the corporation,  
 19 the purpose of incorporating under this chapter, the locality of the  
 20 principal office of the company, the names and residences of the  
 21 subscribers to the articles of association, and the amount of stock  
 22 subscribed by each, and shall file such articles of association with the  
 23 ~~secretary of state, who shall be entitled to~~ **department of commerce**  
 24 **with** a fee of ten dollars (\$10) for the filing, the same to be paid by said  
 25 company.

26 SECTION 401. IC 27-5-9-9 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. Whenever a  
 28 majority of the directors, of whom the president shall be one, shall file  
 29 with the commissioner of insurance a statement under oath that there  
 30 has been a subscription of not less than one hundred thousand dollars  
 31 (\$100,000) to the capital stock of such company and not less than one  
 32 hundred thousand dollars (\$100,000) thereof has been actually paid in  
 33 and the certificate required by section 3 of this chapter and the articles  
 34 of association have been filed ~~in with the office of the secretary of~~  
 35 ~~state, department of commerce,~~ the commissioner shall, if satisfied  
 36 that the provisions of this chapter have been complied with, certify to  
 37 the ~~secretary of state~~ **department of commerce** the name of the  
 38 company, the amount of its subscribed and paid-up capital, and the  
 39 principal place of business of the company, which certificate shall be  
 40 filed with the ~~secretary of state,~~ **department of commerce** and  
 41 thereupon the ~~secretary of state~~ **department of commerce** shall issue  
 42 to such company a certificate of incorporation authorizing it to do



1 business, and such certificate shall be conclusive evidence of the  
2 validity of the organization of such company.

3 SECTION 402. IC 27-5-9-10 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. The fees of  
5 the auditor and ~~secretary of state~~ **the department of commerce** shall  
6 be ten dollars (~~\$10.00~~) **(\$10)** each for such certificate, which shall be  
7 paid by such company.

8 SECTION 403. IC 27-8-3-1 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. Any number of  
10 persons not less than five (5), a majority of whom are citizens of this  
11 state, may associate themselves together as a corporation, association,  
12 or society for the purpose of transacting the business of life or accident,  
13 or life and accident insurance, and for the payment of partial and  
14 permanent disability claims to living members, upon the assessment  
15 plan, for the purpose of mutual protection and relief of its members,  
16 and for the payment of stipulated sums of money to the families, heirs,  
17 executors, administrators, or assigns of the deceased members, or for  
18 the payment of total and permanent disability claims to living members  
19 of such company, association, or society, as the member may direct, in  
20 such manner as may be provided in the bylaws; and may receive  
21 money, either by voluntary donation or contribution, for which purpose,  
22 they shall make, sign, and acknowledge, before any officer authorized  
23 to take acknowledgment of deeds in this state, articles of incorporation  
24 or association, in which shall be stated the name or title by which such  
25 corporation, association, or society shall be known in law, the location  
26 of its principal business office (which office must be located in this  
27 state), the names and residence of the persons signing the articles of  
28 incorporation or association, the object of the corporation, association,  
29 or society, with its plan of doing business clearly and fully defined, the  
30 number of its directors, trustees or managers and the names of those  
31 selected to serve until its first annual meeting, and, in case of life  
32 corporations, associations, or societies, the limit as to age of applicants  
33 for membership, which shall not exceed sixty-five (65) years, and that  
34 medical examinations are required, but no medical examination shall  
35 be required in case of accident corporations, associations, or societies,  
36 and that bona fide applications have been secured for two hundred  
37 thousand dollars (\$200,000) by not less than two hundred (200)  
38 persons, who have each made application for membership in such  
39 proposed corporation, association, or society, and, in case of a life  
40 corporation, have each been examined and recommended by a reliable  
41 physician, and in all cases have each deposited with the parties asking  
42 the certificate for such corporation, association, or society the sum of

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1 two dollars (\$2) on each one thousand dollars (\$1,000) of insurance  
 2 applied for as an advance assessment for mortuary or accident or  
 3 disability indemnity purposes, as the case may be; which certificate of  
 4 association and applications, together with the certificate of some  
 5 solvent bank or banks that all such advance funds are deposited therein  
 6 to be turned over to the treasurer of such corporation, association, or  
 7 society when organized, shall be submitted to the insurance  
 8 commissioner, who shall carefully examine the same, and, if he shall  
 9 find that the objects and purposes are fully and definitely set forth and  
 10 are clearly within the provisions of this chapter, and that the name or  
 11 title is not the same or does not so closely resemble a title in use as to  
 12 have a tendency to mislead the public, the commissioner shall submit  
 13 the same to the attorney general for examination, and if found by him  
 14 to be in accordance with this chapter and not inconsistent with the  
 15 constitution and laws of the United States and of this state, he shall  
 16 certify to and deliver the same to the ~~secretary of state, who~~  
 17 **department of commerce. The department of commerce shall cause**  
 18 **the same; record the certificate of association** with the certificate of  
 19 the attorney general ~~to be recorded~~ in a book to be kept for that  
 20 purpose; and, upon application of the signers thereof, the ~~secretary of~~  
 21 **state department of commerce** shall furnish to them a certified copy  
 22 of such articles and certificates, under ~~his hand and~~ the seal of this  
 23 state, and the ~~secretary of state~~ **department of commerce** shall  
 24 thereupon file in the office of the commissioner a certified copy of all  
 25 papers pertaining to the organization of such corporation, association,  
 26 or society. Thereupon, the commissioner shall issue a license,  
 27 authorizing said corporation, association, or society to transact the  
 28 business set forth in the certificate of incorporation. Such corporation,  
 29 association, or society shall deposit with the commissioner a copy of all  
 30 its forms of policy issued by them, together with a copy of its bylaws  
 31 and all forms of application for insurance.

32 SECTION 404. IC 27-8-3-5 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. Any domestic  
 34 corporation, association, or society, transacting business of life or  
 35 accident or life and accident insurance and providing for the payment  
 36 of total and permanent disability claims to living members, upon the  
 37 assessment plan, may be reincorporated or reorganized under the  
 38 provisions of this chapter under its existing corporate name, by filing  
 39 with the insurance commissioner a declaration of their desire to do so,  
 40 signed and duly acknowledged by a majority of its board of directors,  
 41 trustees, or managers, with a statement in like manner signed and  
 42 acknowledged by them that such corporation, association, or society,



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1 having insured the lives or provided for the payment of accident  
 2 indemnity, has accumulated the fund required by section 7 of this  
 3 chapter, or having engaged in the business of accident insurance only,  
 4 has accumulated the fund required by section 11 of this chapter, and  
 5 that such funds are safely invested and held for the purposes for which  
 6 the same were accumulated, as provided in the bylaws of such  
 7 corporation, association or society, whereupon the commissioner, if  
 8 approved by him, shall file the same, together with his certificate of  
 9 such approval, with the ~~secretary of state;~~ **who department of**  
 10 **commerce.** The department of commerce shall issue to such  
 11 corporation, association, or society a certificate of such reincorporation  
 12 or reorganization, under the seal of the state, and attach thereto copies  
 13 of all papers so filed with the ~~secretary of state;~~ **department of**  
 14 **commerce,** and the same shall be recorded ~~in with~~ the ~~office of the~~  
 15 ~~secretary of state;~~ **department of commerce** and copies thereof filed  
 16 in the office of the commissioner, and such corporation, association, or  
 17 society shall thereupon be deemed to be reincorporated and  
 18 reorganized under the provisions of this chapter. It shall not be  
 19 obligatory upon any such existing corporation, association or society  
 20 to incorporate or reincorporate under this chapter, and any such  
 21 domestic corporation, association, or society may continue to exercise  
 22 all the rights, powers, and privileges not inconsistent with this chapter,  
 23 pursuant to its articles of incorporation or association, the same as if  
 24 incorporated or reincorporated under this chapter.

25 SECTION 405. IC 28-1-1-3 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. Unless a  
 27 different meaning is required by the context, the following definitions  
 28 apply throughout this article:

29 (1) "Financial institution" means any bank, trust company,  
 30 corporate fiduciary, savings association, credit union, savings  
 31 bank, bank of discount and deposit, or industrial loan and  
 32 investment company organized or reorganized under the laws of  
 33 this state, and includes a consumer finance institution licensed to  
 34 make supervised or regulated loans under IC 24-4.5.

35 (2) "Bank" or "bank or trust company" means a financial  
 36 institution organized or reorganized as a bank, bank of discount  
 37 and deposit, or trust company under the laws of this state with the  
 38 express power to receive and accept deposits of money subject to  
 39 withdrawal by check, and possessing such other rights and powers  
 40 granted by the provisions of this article in express terms or by  
 41 implication. The term "bank" or "bank or trust company" does not  
 42 include a savings association, credit union, or industrial loan and



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investment company.

(3) "Domestic corporation" means a corporation formed under the laws of this state, and "foreign corporation" means every other corporation.

(4) "Articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger and consolidation, and, in the case of corporations organized before July 1, 1933, articles of reorganization, and all amendments thereto.

(5) "Incorporator" means one (1) of the signers of the original articles of incorporation.

(6) "Subscriber" means one who subscribes for shares of stock in a financial institution.

(7) "Shareholder" means one who is a holder of record of shares of stock in a financial institution.

(8) "Capital stock" means the aggregate amount of the par value of all shares of capital stock.

(9) "Capital" means the aggregate amount paid in on the shares of capital stock of a financial institution issued and outstanding.

(10) "Sound capital" means and includes the paid-in and unimpaired capital, the unimpaired surplus, and the unimpaired proceeds of the notes and debentures of any bank which have been issued under the authority and with the approval, in writing, of the department.

(11) "Assets" includes all of the property and rights of every kind of a financial institution and the term "fixed assets" means such assets as are not intended to be sold or disposed of in the ordinary course of business.

(12) "Principal office" means that office maintained by the financial institution in this state, the address of which is required by the provisions of this article to be kept on file ~~in~~ **with the office of the secretary of state. department of commerce.**

(13) "Subscription" means any written agreement or undertaking, accepted by a financial institution, for the purchase of shares of capital stock in the financial institution.

(14) "Department" means the department of financial institutions.

(15) "Member" means a member of the department of financial institutions.

(16) "Branch" means any office, agency, or other place of business, other than the principal office of a financial institution, at which deposits are received, checks paid, or money lent.

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(17) "Subsidiary" means any foreign or domestic corporation or limited liability company in which the parent bank has at least eighty percent (80%) ownership.

(18) "Savings bank" means a financial institution that:

(A) was organized, reorganized, or operating under IC 28-6 (before its repeal) before January 1, 1993;

(B) is formed as the result of a conversion under:

(i) IC 28-1-21.7;

(ii) IC 28-1-21.8; or

(iii) IC 28-1-21.9; or

(C) is incorporated under IC 28-12.

(19) "Corporate fiduciary" means a financial institution whose primary business purpose is to engage in the trust business (as defined in IC 28-14-1-8) and the execution and administration of fiduciary accounts as a nondepository trust company incorporated under Indiana law.

SECTION 406. IC 28-1-3.1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. The articles of dissolution shall be executed in triplicate and shall be presented in triplicate to the ~~secretary of state at his office~~ **department of commerce** (as provided in section 18 of this chapter) accompanied by the fees prescribed by law.

SECTION 407. IC 28-1-3.1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 18. Upon presentation of the articles of dissolution as provided in section 17 of this chapter, the ~~secretary of state~~ **department of commerce** shall:

(1) ~~endorse his~~ **indicate** approval upon each of the triplicate copies of the articles if ~~he finds that they~~ **the articles** conform to law;

(2) when all fees have been paid as required by law:

(A) file one (1) copy of the articles ~~in his office;~~ **with the department of commerce;**

(B) issue a certificate of dissolution to the department; and

(C) return the certificate of dissolution to the department, together with two (2) copies of the articles of dissolution bearing the ~~endorsement of his~~ **department of commerce's** approval.

SECTION 408. IC 28-1-3.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 19. The department shall file for record with the county recorder of the county where the principal office of the financial institution is located one (1) of the triplicate copies of the articles of dissolution bearing the



1 ~~endorsement of the department of commerce's approval of the~~  
2 ~~secretary of state~~ as provided in section 18 of this chapter.

3 SECTION 409. IC 28-1-5-3 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. Every  
5 corporation shall maintain an office or place of business in this state,  
6 which shall be known as the "principal office", and which shall be  
7 located in a county in which the corporation conducts business. The  
8 post office address of the principal office shall be stated in the original  
9 articles of incorporation, at the time of the incorporation. Thereafter,  
10 the location of the principal office may be changed at any time or from  
11 time to time when authorized by the board of directors and approved  
12 by the department, by filing with the ~~secretary of state~~ **department of**  
13 **commerce** on or before the day on which the change is to take effect,  
14 a certificate signed by the president or a vice president and by the  
15 secretary or cashier of the corporation and verified by one of the  
16 officers signing the certificate, stating the change to be made and  
17 reciting that the change is made pursuant to authorization by the board  
18 of directors.

19 SECTION 410. IC 28-1-7-9 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) After the  
21 signing of the agreement of merger under section 8 of this chapter,  
22 articles of merger shall be executed and filed in the manner provided  
23 in this section, setting forth:

- 24 (1) the agreement of merger;
- 25 (2) the fact that the merger has been approved by the department;
- 26 (3) the signatures of the corporations that are parties to the
- 27 agreement;
- 28 (4) the manner of its adoption; and
- 29 (5) the vote by which adopted by each of the corporations.

30 (b) The articles of merger shall be signed on behalf of each  
31 corporation by its president or a vice president and by its secretary or  
32 cashier and shall be acknowledged before a notary public. The articles  
33 of merger shall then be filed with the ~~secretary of state~~ **department of**  
34 **commerce**.

35 SECTION 411. IC 28-1-7-10 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. Upon the  
37 filing of the articles of merger, the ~~secretary of state~~ **department of**  
38 **commerce** shall:

- 39 (1) ~~endorse~~ **indicate** the approval of the ~~secretary of state~~  
40 **department of commerce** upon each of the copies of the articles;
- 41 (2) retain one (1) copy of the articles;
- 42 (3) issue a certificate of merger; and



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(4) return the remaining copies of the approved articles, together with the certificate of merger, to the surviving corporation or its designated agent.

SECTION 412. IC 28-1-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 16. Upon the execution of the agreement of consolidation by all of the corporations that are parties to the agreement, articles of consolidation shall be executed and filed with the ~~secretary of state~~ **department of commerce**. The articles of consolidation must set forth the factors prescribed in section 9 of this chapter as if the consolidation was a merger.

SECTION 413. IC 28-1-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. Upon the filing of the articles of consolidation, the ~~secretary of state~~ **department of commerce** shall:

- (1) ~~endorse~~ **indicate** the approval of the ~~secretary of state~~ **department of commerce** upon each of the copies of the articles;
- (2) retain one (1) copy of the articles;
- (3) issue a certificate of consolidation and incorporation to the new corporation; and
- (4) return the remaining copies of the approved articles of consolidation, together with the certificate of consolidation and incorporation, to the new corporation or to its designated agent.

SECTION 414. IC 28-1-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 18. Upon the issuance of a certificate of merger or a certificate of consolidation and incorporation by the ~~secretary of state~~ **department of commerce**, the merger or consolidation, as the case may be, shall be effected.

SECTION 415. IC 28-1-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 20. The surviving or new corporation resulting from a merger or consolidation shall, within ten (10) days after such merger or consolidation becomes effective, file for record one (1) of the copies of the articles of merger or consolidation bearing the ~~endorsement of the~~ approval of the ~~secretary of state~~ **department of commerce**, or a copy of such agreement and ~~endorsement~~ certified by the ~~secretary of state~~ **department of commerce**, in the office of the recorder of each county in which the principal office of any of the corporations that are parties to the agreement is located.

SECTION 416. IC 28-1-7.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) If a plan of exchange is approved by the department, the plan shall be submitted to

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1 a vote of the shareholders of the bank, trust company, corporate  
 2 fiduciary, or stock savings bank and, if the articles of incorporation of  
 3 the holding company are to be amended in the plan, to a vote of the  
 4 shareholders of the holding company, at the meeting or meetings of the  
 5 shareholders directed by the resolutions of the board of directors of the  
 6 corporation approving the plan of exchange. Each shareholder of the  
 7 bank, trust company, corporate fiduciary, or stock savings bank shall  
 8 be provided with a copy of a proxy or information statement setting  
 9 forth material facts regarding the holding company and the plan of  
 10 exchange at the same time as the shareholder is provided with the  
 11 notice of the meeting. Three (3) copies of the definitive proxy or  
 12 information statement, one (1) of which shall be marked to indicate the  
 13 changes from the preliminary statement filed under section 4 of this  
 14 chapter, shall be filed with the department by the bank, trust company,  
 15 corporate fiduciary, or stock savings bank not later than the date the  
 16 statement is first sent, given, or delivered to shareholders.

17 (b) The plan of exchange is approved by the shareholders of a  
 18 corporation when affirmative votes representing at least a majority (or  
 19 such greater portion as the articles of incorporation may require) of the  
 20 outstanding shares are received from shareholders entitled to vote on  
 21 the plan. Notwithstanding shareholder adoption of the plan of exchange  
 22 and at any time before the filing of articles of exchange with the  
 23 **secretary of state department of commerce** under section 9 of this  
 24 chapter, the plan of exchange may be abandoned by a resolution of the  
 25 board of directors of the bank, trust company, corporate fiduciary, or  
 26 stock savings bank or of the holding company.

27 SECTION 417. IC 28-1-7.5-9 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) After the  
 29 plan of exchange is approved by shareholders of the bank, trust  
 30 company, corporate fiduciary, or stock savings bank and, if required,  
 31 by the shareholders of the holding company, and unless the plan of  
 32 exchange is subsequently abandoned, the bank, trust company,  
 33 corporate fiduciary, or stock savings bank and the holding company  
 34 shall prepare articles of exchange setting forth:

- 35 (1) the plan of exchange;
- 36 (2) the manner of the approval of the plan by the directors of the  
 37 holding company and the bank, trust company, corporate  
 38 fiduciary, or stock savings bank;
- 39 (3) the manner of its adoption and the vote by which adopted by  
 40 the shareholders; and
- 41 (4) the fact that the plan of exchange has been approved by the  
 42 department.



(b) The articles of exchange shall be signed under oath on behalf of each corporation. The articles of exchange shall be filed with the department. The department shall, if it approves the articles of exchange, endorse its approval on all copies and file them with the ~~secretary of state~~ **department of commerce**. The ~~secretary of state~~ **department of commerce** shall ~~endorse~~ **indicate** the approval of the ~~secretary of state~~ **department of commerce** on each of the copies and keep one (1) copy of the articles of exchange, issue a certificate of exchange, and deliver the remaining copies to the holding company.

(c) The plan of exchange becomes effective upon the issuance of the certificate of exchange by the ~~secretary of state~~ **department of commerce**, unless a later date is specified.

SECTION 418. IC 28-1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. With the approval in writing of the department, the incorporators named in the articles of incorporation of any corporation organized under the provisions of this article may surrender the certificate of incorporation and all of the corporate rights and franchises of the corporation, at any time within one (1) year from the date of the issuance of the certificate and before the issuance of any of the shares of capital stock of the corporation and before the beginning by it of the business for which it was formed, by presenting to the ~~secretary of state~~ **department of commerce**, accompanied by the fees prescribed by law, a certificate, in triplicate, signed and verified by the joint and several oaths of a majority of the incorporators, in the form prescribed by the ~~secretary of state~~ **department of commerce**, showing that no shares of the capital stock of the corporation have been issued and that the amount, if any, actually paid in on the shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto, that such business has not been begun, that no debts remain unpaid, and that they surrender all rights and franchises.

SECTION 419. IC 28-1-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. The articles of dissolution shall be executed in triplicate, in the form prescribed by the department, by the president or a vice-president and by the secretary or cashier of the corporation, and shall be verified by the oaths of the officers signing such articles, and shall be presented in triplicate to the department as (and) to the ~~secretary of state~~ **department of commerce**, at their offices, as hereinafter provided, accompanied by an affidavit of the publisher of the newspaper wherein the notice of dissolution was published, as hereinbefore provided, as to the publication of such notice, and by the fees prescribed by law.



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1 SECTION 420. IC 28-1-9-15 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. After the  
 3 articles of dissolution shall have been executed and before they are  
 4 presented to the ~~secretary of state~~, **department of commerce**, they  
 5 shall first be presented to the department. If the department finds that  
 6 the articles of dissolution conform to law, it shall approve such articles,  
 7 and its approval shall be evidenced in the manner prescribed in  
 8 IC 28-12-5.

9 SECTION 421. IC 28-1-9-16 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 16. Upon  
 11 presentation of the certificate of the incorporators, as provided in  
 12 section 1 of this chapter, or of the articles of dissolution and proof of  
 13 publication, as provided in section 14 of this chapter, the ~~secretary of~~  
 14 ~~state~~, **department of commerce**, if ~~he~~ **the department of commerce**  
 15 finds that it or they conform to law, shall ~~endorse his~~ **indicate the**  
 16 **department of commerce's** approval upon each of the triplicate copies  
 17 of the certificate or articles, as the case may be, and, when all fees shall  
 18 have been paid as required by law, shall file one (1) copy of the  
 19 certificate or articles and the accompanying proof of publication ~~in~~  
 20 **with his office, the department of commerce**, and shall issue a  
 21 certificate of dissolution to the corporation, and shall return the  
 22 certificate of dissolution to the corporation, together with two (2)  
 23 copies of the certificate of the incorporators or articles of dissolution,  
 24 as the case may be, bearing the ~~endorsement of his~~ approval.

25 SECTION 422. IC 28-1-9-17 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. The  
 27 corporation shall then file for record with the county recorder of the  
 28 county or counties in which the articles of incorporation were or should  
 29 have been recorded, as provided in IC 28-12-8, one (1) of the triplicate  
 30 copies of the certificate of the incorporators or of the articles of  
 31 dissolution bearing the ~~endorsement of the~~ approval of the ~~secretary of~~  
 32 **state department of commerce** as provided in section 16 of this  
 33 chapter.

34 SECTION 423. IC 28-1-21.4-4 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. As used in this  
 36 chapter, "effective time of the charter conversion" means the date:

37 (1) that the articles of conversion are filed with the ~~secretary of~~  
 38 **state department of commerce** under section 16 of this chapter;

39 or

40 (2) designated in the articles of conversion.

41 SECTION 424. IC 28-1-21.4-16 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 16. (a) To effect

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1 the charter conversion, the converting savings association must file  
2 with the ~~secretary of state~~ **department of commerce** articles of charter  
3 conversion showing the approval of the director of the department.

4 (b) The converting savings association shall record copies of the  
5 articles of charter conversion with the county recorder of the county  
6 where the principal office of the stock savings association is located.

7 (c) The articles of charter conversion constitute articles of  
8 incorporation and must set forth the elements required in IC 28-12-2-1.

9 SECTION 425. IC 28-1-21.6-4 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. As used in this  
11 chapter, "effective time of the charter conversion" means:

12 (1) the date that articles of conversion are filed with the ~~Indiana~~  
13 ~~secretary of state;~~ **department of commerce;** or

14 (2) the date designated in the articles of conversion.

15 SECTION 426. IC 28-1-21.6-14 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. In order to  
17 effect the charter conversion, the converting savings association shall  
18 file articles of charter conversion, bearing the approval of the director  
19 of the department, with the ~~secretary of state;~~ **department of**  
20 **commerce.** The converting savings association shall also file copies of  
21 the articles of charter conversion with the county recorder of the county  
22 where the principal office of the commercial bank is located.

23 SECTION 427. IC 28-1-21.7-2 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. As used in this  
25 chapter, "effective time of the mutual bank conversion" means:

26 (1) the date that articles of mutual bank conversion are filed with  
27 the ~~secretary of state;~~ **department of commerce;** or

28 (2) the date designated in the articles of mutual bank conversion.

29 SECTION 428. IC 28-1-21.7-14 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. In order to  
31 effect the mutual bank conversion, the converting savings association  
32 shall file articles of mutual bank conversion, bearing the approval of  
33 the director of the department, with the ~~Indiana secretary of state;~~  
34 **department of commerce.** The converting savings association shall  
35 also file copies of the articles of mutual bank conversion with the  
36 county recorder of the county where the principal office of the mutual  
37 bank is located.

38 SECTION 429. IC 28-1-21.8-2 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. As used in this  
40 chapter, "effective time of the charter conversion" means:

41 (1) the date that articles of conversion are filed with the ~~secretary~~  
42 ~~of state;~~ **department of commerce;** or



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(2) the date designated in the articles of conversion.

SECTION 430. IC 28-1-21.8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. (a) To effect the stock savings bank conversion, the converting savings association must file with the ~~secretary of state~~ **department of commerce** articles of conversion showing the approval of the director of the department.

(b) The converting savings association shall record copies of the articles of conversion with the county recorder of the county where the principal office of the stock savings bank is located.

(c) The articles of conversion constitute articles of incorporation and must set forth the elements required in IC 28-12-2-1.

SECTION 431. IC 28-1-21.9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. As used in this chapter, "effective time of the charter conversion" means:

(1) the date that articles of conversion are filed with the ~~secretary of state~~; **department of commerce**; or

(2) the date designated in the articles of conversion.

SECTION 432. IC 28-1-21.9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. (a) To effect the charter conversion, the converting savings bank must file with the ~~secretary of state~~ **department of commerce** articles of charter conversion showing the approval of the director of the department.

(b) The converting savings bank shall record copies of the articles of charter conversion with the county recorder of the county where the principal office of the stock savings bank is located.

(c) The articles of charter conversion constitute articles of incorporation and must set forth the elements required in IC 28-12-2-1.

SECTION 433. IC 28-1-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) Any bank, savings bank, trust company, corporate fiduciary, credit union, industrial loan and investment company, or savings association organized under the laws of any other state (as defined in IC 28-2-17-19) or the United States other than those domiciled in Indiana, referred to in this chapter as a corporation or foreign corporation, shall, before transacting business in this state, obtain a certificate of admission to this state from the department, which must be filed with the ~~secretary of state~~ **department of commerce**. A corporation may not do business in Indiana unless a certificate of admission is issued to the corporation by the department.

(b) The activities listed in IC 23-1-49-1(b) do not constitute transacting business within the meaning of subsection (a). For the purposes of this section, the list of activities set forth in

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1 IC 23-1-49-1(b) is not exhaustive.

2 (c) Isolated business transactions that are not regular, systematic, or  
3 continuing do not constitute the transaction of business under  
4 subsection (a).

5 SECTION 434. IC 28-1-22-7 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. Upon  
7 submission of a foreign corporation's application for admission, the  
8 department shall issue to the foreign corporation a certificate of  
9 admission, which shall be filed with the ~~secretary of state~~ **department**  
10 **of commerce**. The ~~secretary of state~~ **department of commerce** shall  
11 file one (1) copy of the certificate of admission issued by the  
12 department and an authenticated copy of the articles of incorporation  
13 or association of the corporation, and shall issue to the corporation an  
14 original and a duplicate certificate of admission. The certificate of  
15 admission issued by the ~~secretary of state~~ **department of commerce**  
16 must set forth:

17 (1) the name of the corporation, the state or country where it was  
18 incorporated, and the location of its principal office in such state  
19 or country; and

20 (2) the nature of the business it is authorized to transact in this  
21 state.

22 SECTION 435. IC 28-1-22-8 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. A foreign  
24 corporation that has been issued a certificate of admission by the  
25 ~~secretary of state~~ **department of commerce** shall be admitted and shall  
26 have authority to transact the business set forth in the certificate.

27 SECTION 436. IC 28-1-22-12 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. A foreign  
29 corporation admitted to do business in this state shall keep on file with  
30 the ~~secretary of state~~ **department of commerce** an affidavit setting  
31 forth the location of its principal office in this state, and the name of a  
32 person who serves as its agent or representative on whom legal process  
33 may be served.

34 SECTION 437. IC 28-1-22-14 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 14. A foreign  
36 corporation admitted to do business in this state shall keep on file with  
37 the ~~secretary of state~~ **department of commerce** a copy of each  
38 amendment of its articles of incorporation or association.

39 SECTION 438. IC 28-1-22-18 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 18. Upon  
41 submission of an application for an amended certificate of admission,  
42 the department shall issue an amended certificate of admission, which

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1 shall be filed with the ~~secretary of state~~ **department of commerce**.  
 2 The ~~secretary of state~~ **department of commerce** shall file one (1) copy  
 3 of the amended certificate of admission issued by the department and  
 4 shall issue to the corporation an original and a duplicate amended  
 5 certificate of admission. The amended certificate issued by the  
 6 ~~secretary of state~~ **department of commerce** shall set forth the  
 7 character of business that the corporation is authorized to transact in  
 8 this state.

9 SECTION 439. IC 28-1-22-19 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 19. A foreign  
 11 corporation that has been issued an amended certificate of admission  
 12 by the ~~secretary of state~~ **department of commerce** shall have authority  
 13 to transact in this state the business set forth in the certificate.

14 SECTION 440. IC 28-1-22-21 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 21. A foreign  
 16 corporation may surrender its certificate of admission by filing a  
 17 statement of withdrawal with the department and the ~~secretary of state~~  
 18 **department of commerce**.

19 SECTION 441. IC 28-1-22-24 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 24. The certificate  
 21 of admission of any foreign corporation admitted to do business in this  
 22 state may be revoked at any time by the department:

23 (1) upon the failure of the corporation for thirty (30) days to  
 24 appoint and maintain an agent in this state upon whom service of  
 25 legal process may be had;

26 (2) upon the failure of the corporation for thirty (30) days to keep  
 27 on file ~~in with the office of the secretary of state~~ **department of**  
 28 **commerce** duly authenticated copies of each instrument  
 29 amending its articles of incorporation;

30 (3) upon the failure of the corporation for thirty (30) days to file  
 31 for record in the office of a county recorder the certificate of  
 32 admission or any amended certificate of admission as provided by  
 33 this article;

34 (4) upon the failure, neglect, or refusal of the corporation for  
 35 thirty (30) days to pay any fee required by the laws of this state;  
 36 or

37 (5) for willful misrepresentation of any material matter in any  
 38 application, statement, affidavit, or other paper filed by such  
 39 corporation pursuant to this article.

40 SECTION 442. IC 28-1-22-25 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 25. (a) A  
 42 certificate of admission of a foreign corporation is revoked when the

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department:

(1) serves a certificate of revocation upon the corporation at its principal office in Indiana; and

(2) files a copy of the certificate of revocation with:

(A) the ~~secretary of state~~ **department of commerce**; and

(B) the county recorder of the county in which the principal office of the corporation in Indiana is located.

(b) Upon the serving of a certificate of revocation by the department, the authority of the corporation to transact business in this state shall cease, and the corporation shall not transact any business in this state.

SECTION 443. IC 28-1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. The fees payable to the ~~secretary of state~~ **department of commerce** by financial institutions which are organized or reorganized under the laws of this state and under the laws of any other state shall be the same as the fees prescribed in chapter 219 of the Acts of the general assembly of 1929, except that the fee imposed on the basis of the capital stock of any credit union shall not exceed the sum of one dollar (~~\$1.00~~) (**\$1**) for each original application and one dollar (~~\$1.00~~) (**\$1**) for each additional application for shares irrespective of the number of shares to be authorized by such application and issued thereunder.

SECTION 444. IC 28-1-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. The fees payable to the ~~secretary of state~~ **department of commerce** by financial institutions which are organized or reorganized under the laws of this state or under the laws of any other state shall be the same as the fees prescribed in IC 23-1-18, except that the fee imposed on the basis of the capital stock of any savings association shall be the sum of one dollar (**\$1**) for each original application and one dollar (**\$1**) for each additional application for shares, irrespective of the number of shares to be authorized by such application and issued thereunder.

SECTION 445. IC 28-3-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. When the affairs of said bank shall have been completely liquidated, its officers shall at once surrender its certificate of incorporation to the ~~secretary of state~~ **department of commerce**. **The department of commerce** shall cancel ~~same~~; **the certificate of incorporation** and ~~said the~~ certificate shall thereafter ~~be void and of have~~ no legal effect.

SECTION 446. IC 28-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. The board of directors of the bank or trust company and the board of directors of the

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national banking association shall each give notice of the time, place, and object of the shareholders' meeting, to act upon the plan of conversion, merger, or consolidation, to each of their respective shareholders of record, which notice may be waived specifically by any shareholder. The meeting of the shareholders of a bank or trust company shall be called in accordance with the provisions of IC 28-13, and the meeting of the shareholders of a national banking association shall be called in accordance with the provisions of the laws of the United States. The plan of conversion, merger, or consolidation shall be adopted provided the shareholders of at least two-thirds (2/3) of each class of the capital stock of the bank or trust company and the shareholders of at least two-thirds (2/3) of each class of the capital stock of the national banking association vote affirmatively in favor of such plan. The conversion of a bank or trust company into a national banking association shall be considered as completed upon the issuance of a national bank charter or other evidence of conversion by the comptroller of the currency. The conversion of a national banking association into a state bank shall be considered completed upon the acceptance of articles of incorporation by the department of financial institutions and the issuance of a certificate of incorporation by the ~~secretary of state of the state of Indiana~~ **department of commerce**. The merger and consolidation of a bank or trust company with a national banking association shall be considered completed upon filing with the department of financial institutions a certificate of merger or consolidation executed by the comptroller of the currency. The merger and consolidation of a national banking association with a bank or trust company shall be considered completed upon the approval, by the department of financial institutions, of articles of merger or consolidation and the execution of a certificate of merger or consolidation by the ~~secretary of state of the state of Indiana~~ **department of commerce**.

SECTION 447. IC 28-6.1-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) To effect the conversion, the converting savings bank must file articles of conversion showing the department's approval of the conversion with the following:

- (1) The ~~secretary of state~~ **department of commerce**.
- (2) The county recorder of the county in which the principal office of the savings bank is located.
- (b) The articles of conversion:
  - (1) must set forth the elements required by IC 28-12-2-1; and
  - (2) constitute the articles of incorporation of the new state bank



or savings and loan association.

SECTION 448. IC 28-6.1-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) After the department has given approval to the resolution of conversion and has returned the resolution of conversion to the savings bank, the savings bank shall give notice of the proposed conversion, by mail, to each depositor of record as of the date of the resolution of conversion. Notice to a depositor shall be sent to the address of the depositor as shown by the records of the savings bank. Notice shall also be given by at least ten (10) consecutive days of publication in a newspaper of general circulation published in the county in which the savings bank is located.

(b) After notice has been given under this section, a copy of the resolution of conversion shall be submitted to the circuit court with jurisdiction in the county in which the savings bank is located.

(c) A depositor of the savings bank aggrieved by the proposed conversion may, not more than twenty (20) days after submission of the resolution of conversion with the court file in the court a verified statement of objection to the proposed conversion. The matter shall be docketed upon the books of the court, and entitled "In the Matter of the Conversion of \_\_\_\_\_ Savings Bank to \_\_\_\_\_" (inserting the names of the savings bank and the successor bank or trust company). The nature of an objection to the conversion is limited to the unfairness of the proposed conversion relative to the rights and interests of the objecting depositor. Without filing pleadings, the savings bank shall be considered to deny the objections.

(d) After the twenty (20) day period for filing objections has expired, the court shall proceed as soon as possible to hear the evidence and determine the fairness of the proposed conversion relative to the individual rights and interests of all objecting depositors. The objecting depositors have the burden of proof.

(e) If the court finds that the proposed conversion is fair with respect to the rights and interests of the objecting depositors, the court shall enter an order:

(1) approving the conversion, subject only to the approval by the ~~secretary of state~~ **department of commerce** of the articles of incorporation of the proposed bank or trust company; and

(2) assessing the costs of the proceeding against the objectors.

(f) If the court finds that the proposed conversion is not fair with respect to the rights and interests of the objecting depositors, the court shall enter an order:

(1) enjoining the conversion; and



(2) assessing the costs of the proceeding against the savings bank.

SECTION 449. IC 28-6.1-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) If the conversion is approved under section 7 of this chapter and if the capital stock of the bank or trust company has been fully subscribed, the trustees of the savings bank shall submit three (3) copies of the articles of incorporation of the bank or trust company with the department's approval indicated on the articles to the ~~secretary of state~~ **department of commerce**.

(b) If the ~~secretary of state~~ **department of commerce** finds that the articles of incorporation conform to law, the ~~secretary of state~~ **department of commerce** shall, after all fees have been paid as required by law:

- (1) indicate approval on the articles;
- (2) keep one (1) copy of the articles for filing; and
- (3) send the trustees a certificate of incorporation and two (2) copies of the articles of incorporation bearing the indicated approval of the ~~secretary of state~~ **department of commerce**.

SECTION 450. IC 28-6.1-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) Except as is incidental to its conversion or to obtaining payment for shares of its capital stock, the bank or trust company may not exercise any new power, right, or authority conferred by its conversion, transact any business, or incur any indebtedness, until both of the following occur:

- (1) One (1) of the copies of the articles of incorporation with the indicated approval of the ~~secretary of state~~ **department of commerce** has been filed with the county recorder of the county in which the principal office of the bank or trust company is located.
- (2) The amount of the capital stock of the bank or trust company has been fully paid in.

(b) If the bank or trust company violates this section, its officers and directors are severally liable for any debts or liabilities of the bank or trust company arising from the violation.

SECTION 451. IC 28-6.2-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. The effective date of the articles of reorganization and amendments to the articles of reorganization must be the date of recording ~~in with the office of the secretary of state~~ **department of commerce**, unless a delayed effective date is specified in the articles of reorganization.

SECTION 452. IC 28-7-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) Any seven

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(7) persons who are residents of Indiana, of legal age, and representing not less than five hundred (500) persons who belong to one (1) or more qualified groups (as defined in section 10 of this chapter) may apply to the department for permission to organize a credit union, by signing and acknowledging, in triplicate, articles of incorporation.

(b) Those persons desiring to organize a credit union under this chapter shall make application on forms prescribed by the director. The articles shall state:

- (1) the name of the credit union;
- (2) the address of the credit union's principal office;
- (3) the purpose for which it is formed;
- (4) qualification for membership in the credit union;
- (5) the par value of the shares;
- (6) the maximum number of directors;
- (7) the name, address, and term of office of each member of the first board of directors;
- (8) the name and address of each of the incorporators and the number of shares subscribed to by each; and
- (9) any other provisions for the regulation of the affairs of the corporation.

(c) The application shall be signed by all incorporators before a notary public.

(d) The department shall make a careful investigation of:

- (1) the character and management qualifications of the proposed directors and officers; and
- (2) the economic feasibility of the proposed credit union service.

(e) The application shall be processed as follows:

- (1) The applicant shall give notice of its application in accordance with IC 28-11-5.
- (2) If exceptions to the application are filed with the department, a public hearing on the application may be scheduled and held in accordance with IC 28-11-5-7.
- (3) If no exceptions to the application are filed, the department shall approve or deny the application within one hundred twenty (120) days.

(f) If the proposed credit union is approved, triplicate copies of the articles of incorporation shall be filed with the ~~secretary of state~~ **department of commerce**. The ~~secretary of state~~ **department of commerce** shall file one (1) copy of the articles and shall issue a certificate of incorporation to the incorporators. The certificate of incorporation, together with two (2) copies of the articles, shall be returned to the incorporators.



(g) The articles shall be filed with the recorder of the county in which the credit union is to be located.

SECTION 453. IC 28-7-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) A credit union may amend its articles of incorporation. An amendment shall be proposed by the board of directors by the adoption of a resolution setting forth the proposed amendment and directing that it be submitted to a vote of the shareholders upon approval by the department. If the resolution is to be proposed at the annual meeting, notice of the proposal shall be included in the notice of the annual meeting. If the resolution is to be proposed at a special meeting, the special meeting shall be called by the resolution proposing the amendment, and notice of the meeting shall be given to each member of the credit union not less than five (5) days before the meeting. The notice must state the purpose of the meeting and contain the subject of the proposed amendment.

(b) The proposed amendment shall be adopted upon receiving the affirmative votes of at least three-fourths (3/4) of the shareholders present at the meeting.

(c) Upon the adoption of an amendment to the articles of incorporation, articles of amendment shall be executed and filed in the following manner:

(1) The articles of amendment shall be prepared and signed in triplicate by the president and secretary of the credit union. The department may approve them in the manner provided in IC 28-12-5.

(2) The amendment, if approved by the department, shall be filed with the ~~secretary of state~~ **department of commerce**. The ~~secretary of state~~ **department of commerce** shall keep one (1) copy of the articles ~~in his office~~ and shall issue a certificate of amendment to the credit union. The ~~secretary of state~~ **department of commerce** shall return the certificate of amendment with a copy of the articles of amendment to the credit union and file the other copy of the articles with the department. A credit union shall not exercise any power, right, or authority conferred by an amendment until a copy of the articles has been filed with the recorder of the county in which the credit union is located.

SECTION 454. IC 28-7-1-27.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 27.1. A credit union may liquidate its affairs and dissolve in the following manner:

(1) The board of directors of a credit union may vote to submit the question of dissolution to the shareholders.



1 (2) Upon the decision of the board of directors under subdivision  
2 (1), payments on shares, withdrawal of shares, and the granting of  
3 loans shall be immediately suspended, pending a vote by the  
4 shareholders on the question whether to dissolve.

5 (3) The chairperson of the credit union shall, within ten (10) days  
6 after the decision of the board under subdivision (1), notify the  
7 department in writing of the reasons for the proposed dissolution.  
8 The notice must include a certified statement of condition of the  
9 credit union.

10 (4) Upon receiving the notice of dissolution, the department shall  
11 conduct an examination of the credit union.

12 (5) At either an annual meeting or a special meeting, the question  
13 of dissolution shall be approved or disapproved by the  
14 shareholders. If approved, such approval shall be evidenced by  
15 the written consent of no fewer than two-thirds (2/3) of the  
16 shareholders. Upon approval by the shareholders, payments on  
17 shares, withdrawal of shares, and granting of loans shall cease. If  
18 two-thirds (2/3) of the vote cannot be obtained, the director may  
19 permit the voluntary dissolution of the credit union to become  
20 effective without the affirmative vote of its membership if the  
21 credit union field of membership has ceased or will cease to exist.

22 (6) If the department finds that the credit union is solvent or that  
23 it has sufficient assets with which to pay its shareholders and all  
24 liabilities, it may approve the dissolution of the credit union and  
25 shall notify the credit union in writing.

26 (7) Upon receipt by the credit union of notice that the resolution  
27 for dissolution has been approved by the department, each  
28 member and creditor shall be notified by the credit union in  
29 writing that such credit union is in the process of dissolution.  
30 Notification to members shall include a request that such  
31 members verify, by passbook or in writing, shareholdings in or  
32 loan obligations to the credit union. Notification to creditors shall  
33 include a request that such creditors present claims to the credit  
34 union within ninety (90) days.

35 (8) The credit union shall be responsible for conserving the assets  
36 of the credit union, expediting the liquidation, discharging all of  
37 the debts and liabilities of the credit union, and equitably  
38 distributing the assets to the shareholders at the completion of the  
39 liquidation. The board shall ensure that all persons handling or  
40 having access to the funds, books, or records of the credit union  
41 are adequately covered by a surety bond to the satisfaction of the  
42 department.

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(9) The board of directors shall forward to the department a certified statement of condition of the credit union within ten (10) days after the close of each month.

(10) Within thirty (30) days after the date of final distribution of the assets of the credit union to the shareholders, the board of directors shall furnish to the department:

(A) a summary showing how the credit union debts and liabilities were paid;

(B) an itemized list of all credit union assets and property distributed to the shareholders, the name of each shareholder, the number and amount of shares held by each at the time of distribution of assets, the amount distributed to each, and the date of distribution; and

(C) the name and address of the custodian appointed by the board of directors, who shall preserve the records of the credit union for five (5) years from the date of final distribution of the assets.

(11) The department shall file with the ~~secretary of state~~ **department of commerce** triplicate copies of the resolution for dissolution bearing the approval of the department as prescribed in IC 28-12-5. The ~~secretary of state~~ **department of commerce** shall endorse each copy of the resolution, file one (1) copy of the resolution, and issue and return a certificate of dissolution to the credit union together with two (2) copies of the resolution for dissolution.

(12) The credit union shall file with the county recorder of the county in which the articles of incorporation were recorded one (1) copy of the resolution for dissolution bearing the endorsement of the ~~secretary of state~~ **department of commerce**. After this filing, the credit union shall be dissolved and its existence shall cease.

(13) The credit union shall continue in its corporate capacity for three (3) years from the date of the resolution adopted by the board as provided in subdivision (1), for the purpose of:

(A) discharging its debts and obligations;

(B) collecting and distributing its assets; and

(C) doing all other acts required in order to terminate its business;

but for no other purpose.

SECTION 455. IC 28-7-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 29. Any credit union organized or reorganized under the laws of Indiana or the United

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1 States may convert from a state charter to a federal charter or from a  
2 federal charter to a state charter as follows:

3 (1) A federally chartered credit union may apply for a state  
4 charter by observing the following procedures:

5 (A) The board of directors shall pass a resolution that the  
6 federal charter be canceled when and if a state charter is  
7 applied for and issued to the credit union by the department of  
8 financial institutions.

9 (B) Written notice of the resolution shall be sent to each  
10 member at least thirty (30) days prior to the meeting in which  
11 the resolution is to be submitted to the members.

12 (C) An affirmative majority vote of the members present at the  
13 meeting shall be required to effect the conversion from federal  
14 to state charter, provided a quorum is present at the meeting.

15 (D) Certified copies of the minutes of the proceedings of the  
16 meeting of the members shall be filed with both the National  
17 Credit Union Administration and the department.

18 (E) Within thirty (30) days after receiving the certified copies  
19 of the minutes, an examination of the financial condition of the  
20 credit union shall be made by the department. The cost of the  
21 examination shall be paid by the credit union.

22 (F) Within thirty (30) days after the completion of the  
23 examination, the department shall report to the credit union the  
24 results of its examination and supply the National Credit  
25 Union Administration with a copy of the examination report.

26 (G) If it receives a satisfactory report of the examination, the  
27 credit union must within thirty (30) days file its amended  
28 articles of incorporation and amended bylaws pursuant to this  
29 chapter with the ~~secretary of state~~, **department of commerce**,  
30 and copies of the amended articles and amended bylaws must  
31 be directed to the department and the National Credit Union  
32 Administration.

33 (H) Officers, directors, and committee members shall retain  
34 their respective offices for the unexpired terms existing prior  
35 to the conversion, subject to the provisions of this chapter.

36 (I) The newly chartered credit union shall have all of the rights  
37 and privileges in and to all of the assets of the prior existing  
38 credit union and shall assume and be responsible for all of the  
39 obligations imposed while operating under the federal charter.

40 (2) A state chartered credit union may be converted into a  
41 federally chartered credit union by complying with the following  
42 requirements:

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(A) The board must adopt and approve by a majority of the directors a resolution of conversion. The proposition for such conversion shall first be approved by a majority of the directors of the state credit union.

(B) The board must notify the membership either in person or by mail of the membership meeting at which the resolution of conversion will be acted upon. The notice must be mailed not more than thirty (30) and not less than seven (7) days before the meeting.

(C) The resolution must be approved by a majority of those voting, either in person or by absentee ballot, at the membership meeting called by the board.

(D) The results of the vote, verified by the affidavits of the chairperson or vice chairperson and the secretary, shall be filed with the department within ten (10) days after the vote is taken.

(E) If the proposition for conversion is approved, the credit union shall within ninety (90) days take the action necessary to make it a federal credit union. Within ten (10) days after receipt of the federal charter, the credit union shall file with the department a copy of the charter. Upon such filing, and after the credit union has notified the ~~office of the secretary of state~~ **department of commerce** that the conversion is concluded, the credit union shall cease to be a state credit union.

SECTION 456. IC 28-7-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 33. (a) Any two (2) or more credit unions may, with the approval of the department, merge. This section authorizes the merger of a credit union organized under this chapter with a credit union organized under any other law.

(b) The board of directors of each credit union participating in the merger must by majority vote approve a joint agreement of merger.

(c) After the resolutions approving a joint agreement of merger have been adopted by the board of directors of each credit union, the credit unions shall submit the resolutions and joint agreement to the department for approval.

(d) If the joint agreement is approved by the department, any credit union whose existence will terminate as a result of the merger shall submit the joint agreement to a vote of its shareholders at the meeting directed by the resolution of the board of directors. A majority of the shareholders present at the meeting may approve the joint agreement. However, the department may permit the merger to become effective



1 without the affirmative vote of the membership of a credit union if that  
 2 credit union is in danger of insolvency or if the qualified group or  
 3 groups associated with the credit union either have ceased or will soon  
 4 cease to exist.

5 (e) After approval of the joint agreement by the shareholders of the  
 6 merging credit unions, each credit union shall execute in triplicate  
 7 articles of merger, on forms furnished by the department, which shall  
 8 set forth the following:

9 (1) The time and place of the meeting of the board of directors at  
 10 which the plan was approved.

11 (2) The vote by which the plan was approved by the board.

12 (3) A copy of the resolution or other action by which the plan was  
 13 agreed upon.

14 (4) The time and place of the meeting of the members at which  
 15 the plan was approved.

16 (5) The vote by which the plan was approved by the members.

17 (f) The articles, joint agreement, and resolutions shall be delivered  
 18 to the department for certification, which shall be evidenced in the  
 19 manner prescribed in IC 28-12-5, and shall be presented to the  
 20 **secretary of state department of commerce** for recording. The  
 21 **secretary of state department of commerce** shall file one (1) copy of  
 22 the articles of merger and shall issue a certificate of merger and two (2)  
 23 copies of the articles of merger to the surviving credit union. The date  
 24 on which the **secretary of state department of commerce** issues the  
 25 certificate of merger is the effective date of the merger.

26 (g) The articles of merger shall be filed with the county recorder of  
 27 the county in which the principal office of the surviving credit union is  
 28 located.

29 SECTION 457. IC 28-8-4-33 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 33. (a) A license  
 31 granted under this chapter permits a licensee to conduct business:

32 (1) at one (1) or more locations directly or indirectly owned by the  
 33 licensee; or

34 (2) through one (1) or more authorized delegates.

35 (b) Each licensee shall maintain a policy of insurance issued by an  
 36 insurer authorized to do business in Indiana that insures the applicant  
 37 against loss by a criminal act or act of dishonesty. The principal sum  
 38 of the policy shall be equivalent to one-half (1/2) of the required  
 39 security device required under section 27 of this chapter or deposit  
 40 required under section 29 of this chapter.

41 (c) Except as provided in subsection (d), a licensee must at all times  
 42 possess permissible investments with an aggregate market value

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1 calculated in accordance with generally accepted accounting principles  
 2 of not less than the aggregate face amount of all outstanding payment  
 3 instruments issued or sold by the licensee or an authorized delegate of  
 4 the licensee in the United States.

5 (d) The director may waive the permissible investments requirement  
 6 in subsection (c) if the dollar volume of a licensee's outstanding  
 7 payment instruments does not exceed:

8 (1) the security device posted by the licensee under section 27 of  
 9 this chapter; or

10 (2) the deposit made by the licensee under section 29 of this  
 11 chapter.

12 (e) A licensee that is a corporation must at all times be in good  
 13 standing with the ~~secretary of state of the~~ state in which the licensee  
 14 was incorporated.

15 SECTION 458. IC 28-12-1-1 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. One (1) or  
 17 more individuals, all of whom are at least eighteen (18) years of age  
 18 and at least a majority of whom are citizens of Indiana, may act as the  
 19 incorporator of a corporation (as defined in IC 28-10-1-3) by doing all  
 20 of the following:

21 (1) Signing and acknowledging before a notary public four (4)  
 22 copies of the articles of incorporation.

23 (2) Delivering to the department for approval the four (4) copies  
 24 of the articles of incorporation, and the application and other  
 25 items required by IC 28-12-4.

26 (3) Filing the articles of incorporation with the ~~secretary of state~~  
 27 **department of commerce** after the articles are approved by the  
 28 department.

29 SECTION 459. IC 28-12-5-2 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. If the articles  
 31 of incorporation are approved by the department, the department shall  
 32 deliver four (4) copies of the articles of incorporation to the ~~secretary~~  
 33 **of state department of commerce** for filing, together with the fees that  
 34 are required.

35 SECTION 460. IC 28-12-5-3 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. The ~~secretary~~  
 37 **of state department of commerce** shall return three (3) copies of the  
 38 articles, bearing the endorsement of the ~~secretary of state;~~ **department**  
 39 **of commerce** to the department. The department shall return two (2)  
 40 of the copies to the incorporators. The incorporators shall then file one  
 41 (1) copy of the articles with the recorder's office of each county in  
 42 which the corporation maintains an office.



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1 SECTION 461. IC 28-12-6-1 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. Unless a  
 3 delayed effective date is specified, the corporate existence of the  
 4 corporation begins when the articles of incorporation bearing the  
 5 approval stamp of the department are filed with the ~~secretary of state~~.  
 6 **department of commerce.**

7 SECTION 462. IC 28-12-6-2 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. The filing of  
 9 the articles of incorporation with the ~~secretary of state~~ **department of**  
 10 **commerce** is conclusive proof that the incorporators satisfied all  
 11 conditions precedent to incorporation except in a proceeding by the  
 12 state to cancel or revoke the incorporation or involuntarily dissolve the  
 13 corporation.

14 SECTION 463. IC 28-13-1-4 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) If the  
 16 articles of incorporation so provide, the board of directors may create  
 17 at least one (1) series, and may determine, in whole or in part, the  
 18 preferences, limitations, and relative voting and other rights within the  
 19 limits set forth in sections 1 through 3 of this chapter of the following:

20 (1) Any class of shares before the issuance of any shares of that  
 21 class.

22 (2) At least one (1) series within a class before the issuance of any  
 23 shares of that series.

24 (b) Each series of a class must be given a distinguishing  
 25 designation.

26 (c) All shares of a series must have preferences, limitations, and  
 27 relative rights identical with those of other shares of the same series  
 28 and, except to the extent otherwise provided in the description of the  
 29 series, with those of other series of the same class.

30 (d) Before issuing shares of a class or series that has the  
 31 preferences, limitations, and relative voting and other rights determined  
 32 under this section, the corporation must prepare articles of amendment,  
 33 which are effective without shareholder action, that set forth the  
 34 following:

35 (1) The name of the corporation.

36 (2) The text of the amendment determining the terms of the class  
 37 or series of shares.

38 (3) The date the articles of amendment are adopted.

39 (4) A statement that the amendment was adopted by the board of  
 40 directors.

41 (e) The articles of amendment shall be presented to the director for  
 42 approval and filed with the ~~secretary of state~~ **department of**

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1 **commerce** as provided in IC 28-13-14 before the shares are issued.

2 SECTION 464. IC 28-13-3-3 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) A  
4 corporation may acquire its own shares pursuant to an adopted  
5 resolution that is submitted to and approved by the director prior to  
6 such acquisition of shares. Unless a resolution of the board of directors  
7 or the corporation's articles of incorporation provide otherwise, shares  
8 so acquired constitute authorized but unissued shares.

9 (b) If the board resolution or articles of incorporation prohibit the  
10 reissue of acquired shares, the number of authorized shares is reduced  
11 by the number of shares acquired, effective upon amendment of the  
12 articles of incorporation.

13 (c) Articles of amendment for purposes of subsections (b) and (f):

14 (1) may be adopted by the board of directors without shareholder  
15 action;

16 (2) shall be delivered to the director of the department for  
17 approval or disapproval; and

18 (3) if approved by the director of the department, shall be  
19 delivered to the ~~secretary of state~~ **department of commerce** for  
20 filing by the director of the department.

21 (d) The articles filed with the ~~secretary of state~~ **department of**  
22 **commerce** must state the following:

23 (1) The name of the corporation.

24 (2) The reduction in the number of authorized shares, itemized by  
25 class and series.

26 (3) The action resulting in the reduction and a copy of the board  
27 resolution authorizing the action.

28 (4) The total number of authorized shares, itemized by class and  
29 series, remaining after reduction of the shares.

30 (e) A corporation has authority to use, hold, acquire, cancel, and  
31 dispose of treasury shares.

32 (f) Unless the board of directors adopts an amendment to the  
33 corporation's articles of incorporation to reduce the number of  
34 authorized shares, as provided in subsection (c), treasury shares of the  
35 corporation that are canceled shall be treated as authorized but  
36 unissued shares. Such shares may be canceled by the adoption of a  
37 board resolution stating that the shares are to be canceled. The  
38 resolution shall be submitted to and approved by the director.

39 (g) A reduction of the issued and outstanding shares of capital stock  
40 of a corporation that renders the corporation insolvent is not lawful.

41 SECTION 465. IC 28-13-14-12 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. (a) The

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articles of amendment shall be prepared and signed in triplicate by:

- (1) an officer of the corporation;
- (2) if the corporation has not yet issued shares, by a director of the corporation; or
- (3) if the board of directors has not been selected, by the incorporator;

and shall be presented in triplicate to the department at its office for the approval or disapproval of the director.

(b) When the articles of amendment have been approved by the director, the articles shall be presented to the ~~secretary of state~~ **department of commerce** for filing.

SECTION 466. IC 28-13-14-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. (a) The form of articles of restatement shall be prescribed and furnished by the department.

(b) Articles of restatement shall be prepared and signed in triplicate by:

- (1) an officer of the corporation;
- (2) if the corporation has not yet issued shares, by a director of the corporation; or
- (3) if the board of directors has not been selected, by the incorporator;

and shall be presented in triplicate to the department at the department's office, for the approval or disapproval of the director.

(c) When the articles of restatement have been approved by the director, the articles shall be presented to the ~~secretary of state~~ **department of commerce** for filing.

SECTION 467. IC 28-13-14-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. The department and the ~~secretary of state~~ **department of commerce** may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by section 14(d) of this chapter.

SECTION 468. IC 28-14-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) A corporate fiduciary that engages in the trust business in Indiana shall maintain an office or a place of business in Indiana. The office maintained under this subsection shall be known as the principal office, and must be located in a county in which the corporate fiduciary conducts business.

(b) The post office address of the principal office shall be stated in the original articles of incorporation, at the time of the incorporation. Thereafter, the location of the principal office may be changed at any

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time or from time to time when authorized by the board of directors and approved by the department, by filing with the ~~secretary of state,~~ **department of commerce**, before the date on which the change is to take effect, a certificate that:

- (1) is signed by the president or a vice president and by the secretary or cashier of the corporate fiduciary;
- (2) is verified by one (1) of the officers signing the certificate; and
- (3) states that the change is to be made and that it is made under authorization by the board of directors.

SECTION 469. IC 28-15-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) If a savings association:

- (1) merges with;
- (2) consolidates with; or
- (3) is converted into;

a federal savings and loan association, the savings association shall file with the ~~secretary of state~~ **department of commerce** three (3) copies of a certificate executed by a duly constituted federal authority showing the merger, consolidation, or conversion.

(b) Upon the payment of the fees prescribed by law, the ~~secretary of state~~ **department of commerce** shall:

- (1) note the filing upon each of the copies;
- (2) retain one (1) copy; ~~in the secretary's office~~; and
- (3) return two (2) copies to the association.

(c) One (1) of the copies returned to a savings association under subsection (b) shall be filed by the savings association with the department and the other copy shall be filed with the recorder of the county in which the principal office of the savings association is located.

(d) Upon completion of the filings required by this section, the savings association ceases to be a corporation under Indiana law, except as provided in section 4 of this chapter.

SECTION 470. IC 28-15-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) Subject to regulations prescribed by the Office of Thrift Supervision or its successor, a federal savings and loan association located in Indiana, by resolution approved by its board of directors and adopted by a vote of fifty-one percent (51%) or more of the votes cast at any annual meeting or at any special meeting of its members called to consider the action, may convert itself into a state chartered savings association under this article.

(b) A resolution referred to in subsection (a), when adopted by the



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members of a federal savings and loan association, must:

(1) designate the names and the number of the directors who will serve as directors of the savings association after the conversion takes effect; and

(2) authorize the directors to execute articles of incorporation.

(c) The articles of incorporation executed under this section must include the contents required by IC 28-12-2-1 except that, instead of disclosing the name and address of each incorporator as required by IC 28-12-2-1(4), the articles must:

(1) indicate that the savings association is incorporated by conversion of a federal savings and loan association into a state chartered savings association; and

(2) state the name of the federal savings and loan association converted under this section.

(d) The department must receive from the federal savings and loan association:

(1) three (3) copies of the resolution, certified by the secretary or assistant secretary of the federal savings and loan association; and

(2) the articles of incorporation, in triplicate, signed and acknowledged by the directors designated under subsection (b)(1).

(e) The department shall approve or disapprove the proposed conversion of a federal savings and loan association into a state chartered savings association under this section. The department may not approve a proposed conversion unless the department, after appropriate investigation or examination, finds all of the following:

(1) That the state chartered savings association resulting from the conversion will operate in a safe, sound, and prudent manner.

(2) That the proposed charter conversion will not result in a state chartered savings association that has:

(A) inadequate capital;

(B) unsatisfactory management; or

(C) poor earnings prospects.

(3) That the management or other principals of the savings association are qualified by character and financial responsibility to control and operate in a legal and proper manner the proposed state chartered savings association.

(4) That the interests of the depositors, the creditors, and the public generally will not be jeopardized by the proposed charter conversion.

(f) If the department approves the resolution and articles of incorporation submitted under subsection (d), the department shall:

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(1) indicate its approval on the resolution and articles of incorporation in the manner prescribed by IC 28-12-5-1; and

(2) present the articles of incorporation to the ~~secretary of state~~  
**department of commerce**.

(g) If the ~~secretary of state~~ **department of commerce** finds that the articles of incorporation conform to law, the ~~secretary of state~~  
**department of commerce** shall:

(1) endorse the secretary's approval on the copies of the articles of incorporation;

(2) when all fees required by law have been paid:

(A) file one (1) copy of the articles of incorporation in the secretary's office; and

(B) issue a certificate of incorporation to the savings association; and

(3) return the certificate of incorporation and two (2) copies of the articles of incorporation to the directors of the savings association designated under subsection (b)(1).

(h) The conversion of a federal savings and loan association into a state chartered savings association under this section is effective when the ~~secretary of state~~ **department of commerce** issues the certificate of incorporation under subsection (g). However, before the savings association may transact business under this article or incur indebtedness, except indebtedness that is incidental to its organization, one (1) of the copies of its articles of incorporation bearing the endorsement of the approval of the department and of the ~~secretary of state~~ **department of commerce** must be filed for record with the recorder of the county in which the principal office of the savings association is located.

SECTION 471. IC 33-2.1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) Justices and judges of the supreme court and the court of appeals shall be approved or rejected by the electorate of the state pursuant to Article 7, Section 11 of the Constitution of the State of Indiana.

(b) A justice or judge who wishes to be retained in office shall file a statement with the ~~secretary of state~~, **election division** not later than noon July 15 of the year in which the question of retention of the justice or judge is to be placed on the general election ballot, indicating that the justice or judge wishes to have the question of the justice's or judge's retention placed on the ballot.

(c) This subsection applies to a justice or judge:

(1) who does not file a statement under subsection (b); and

(2) whose term expires under Article 7, Section 11 of the



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1 Constitution of the State of Indiana during the year in which the  
 2 question of the retention of the justice or judge would have been  
 3 placed on the general election ballot.

4 The term of a justice or judge expires December 31 of the year in  
 5 which the question of the justice's or judge's retention would have been  
 6 placed on the ballot.

7 (d) This subsection applies to a justice or judge:

8 (1) who files a statement under subsection (b); and

9 (2) whose retention is rejected by the electorate.

10 The term of a justice or judge ends when the ~~secretary of state~~ **election**  
 11 **division** issues a certificate under IC 3-12-5-1 stating that the justice  
 12 or judge has been removed. However, if the justice or judge has filed  
 13 a petition for a recount under IC 3-12-11, the term of the justice or  
 14 judge does not end until the state recount commission has issued a  
 15 certificate under IC 3-12-11-18 stating that the electorate has rejected  
 16 the retention of the justice or judge.

17 (e) The question of approval or rejection of a justice or judge shall  
 18 be placed on the general election ballot in the form prescribed by  
 19 IC 3-11-2 and must state "Shall Judge or Justice (insert name here) be  
 20 retained in office?".

21 SECTION 472. IC 33-2.1-4-1 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) The  
 23 governor shall appoint three (3) nonattorney citizens of Indiana, one (1)  
 24 each from the First District, the Second District, and the Third District  
 25 of the court of appeals, as commissioners of the judicial nominating  
 26 commission.

27 (b) One (1) month prior to the expiration of a term of office of a  
 28 nonattorney commissioner, the governor shall either reappoint such  
 29 commissioner as provided in section 5 of this chapter or appoint a new  
 30 nonattorney commissioner. All appointments made by the governor to  
 31 the judicial nominating commission shall be certified to the ~~secretary~~  
 32 ~~of state and to the~~ clerk of the supreme court within ten (10) days of the  
 33 appointment.

34 (c) Except as provided in subsection (e), the governor shall appoint  
 35 each nonattorney commissioner for a term of three (3) years.

36 (d) Each appointed nonattorney commissioner shall reside in the  
 37 court of appeals district for which he was appointed. A nonattorney  
 38 commissioner shall be considered as having resigned his position if he  
 39 changes his residency from the court of appeals district for which he  
 40 was appointed.

41 (e) Whenever a vacancy occurs in the office of a nonattorney  
 42 commissioner, the chairman of the commission shall promptly notify



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the governor in writing of such fact. Vacancies in the office of nonattorney commissioners shall be filled by appointment of the governor within sixty (60) days after he has notice of such vacancy. The term of the nonattorney commissioner so appointed shall be for the unexpired term of the member whose vacancy he has filled.

SECTION 473. IC 33-2.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) For purposes of electing members to the judicial nominating commission, the state shall be divided into three (3) districts, which shall correspond to the First District, the Second District, and the Third District of the court of appeals.

(b) The qualified electors consist of the individuals who are registered with the clerk of the supreme court as attorneys in good standing under the requirements of the supreme court.

(c) The electors of each district shall elect one (1) resident of their respective district, who is admitted to the practice of law in Indiana, to the judicial nominating commission. The term of office of each elected member shall be three (3) years, commencing on the first day of January following his election. During the month prior to the expiration of each elected member's term of office an election shall be held to fill the succeeding three (3) year term of office. Attorney commissioners on the commission shall reside for the term of their office in the district from which they were elected. An attorney commissioner shall be considered as having resigned his position if he changes his residency from the court of appeals district for which he was elected.

(d) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the judicial nominating commission shall be filled for the unexpired term of the member creating the vacancy by a special election. An attorney commissioner who is elected to fill an unexpired term shall commence his duties immediately upon the certification of his election to the ~~secretary of state~~ **clerk of the supreme court**.

SECTION 474. IC 33-2.1-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. The attorney commissioners of the judicial nominating commission shall be elected by the following process:

(1) The clerk of the supreme court shall, at least ninety (90) days prior to the date of an election, send a notice by mail to the address for each qualified elector shown on the records of the clerk informing them that nominations for the election must be made to the clerk of the supreme court at least sixty (60) days prior to the election.

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(2) A nomination in writing accompanied by a signed petition of thirty (30) electors from the nominee's district, and the written consent of the nominee shall be filed by any electors or group of electors admitted to the practice of law in Indiana who reside in the same district as the nominee, by mail or otherwise, in the office of the clerk of the supreme court at least sixty (60) days prior to the election.

(3) The clerk of the supreme court shall prepare and print separate ballots for each court of appeals district. These ballots shall contain the names and residence addresses of all nominees residing within the district for which the ballots are prepared, and whose written nominations, petitions, and written statements of consent have been received sixty (60) days prior to the election.

(4) The ballot must read as follows:

Indiana Judicial Nominating Commission

BALLOT FOR DISTRICT ( )

To be cast by individuals residing in District ( ) and registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court. Vote for one (1) member listed below for Indiana Judicial Nominating Commissioner for the term commencing \_\_\_\_\_.

District ( )

(Name) (Address)

(Name) (Address)

(Name) (Address)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the Clerk of the Supreme Court of Indiana, Indianapolis, Indiana, not later than \_\_\_\_\_.

**DESTROY BALLOT IF NOT USED**

(5) The nominee from a district receiving the most votes from the district shall be elected.

(6) The clerk shall also supply with each ballot distributed by him a certificate, to be completed and signed and returned by the elector voting such ballot, certifying that he is registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court, and that he voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(7) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope shall not be opened

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1 until the counting of the ballots.

2 (8) The clerk of the supreme court shall mail a ballot and its  
3 accompanying material to all electors at least two (2) weeks  
4 before the date of the election.

5 (9) The ballot and the accompanying certificate must be received  
6 by the clerk of the supreme court by 4 p.m. on the last day of the  
7 election period.

8 (10) Upon receiving the completed ballots and the accompanying  
9 certificate the clerk of the supreme court shall insure that the  
10 certificates have been completed in compliance with this article.

11 All ballots that are accompanied by a valid certificate shall be  
12 placed in a package designated to contain ballots. All  
13 accompanying certificates shall be placed in a separate package.

14 (11) The clerk of the supreme court, with the assistance of the  
15 ~~secretary of state; and the~~ attorney general, shall open and canvass  
16 all ballots after 4 p.m. on the last day of the election period in the  
17 office of the clerk of the supreme court. No ballots received after  
18 4 p.m. are to be counted unless the chief justice of the state orders  
19 an extension of time because of unusual circumstances. Upon  
20 canvassing the ballots the clerk of the supreme court shall place  
21 all ballots back in their packages. These, along with the  
22 certificates, shall be retained in the clerk's office for a period of  
23 six (6) months, and the clerk shall permit no one to inspect them  
24 except upon an order of the supreme court.

25 (12) Within ten (10) days after the election, the clerk shall certify  
26 the results. ~~to the secretary of state.~~

27 (13) In any election held for selection of attorney commissioners  
28 of the judicial nominating commission, in case two (2) or more  
29 nominees are tied, the canvassers shall resolve the tie by lot in  
30 such manner as they shall adopt and the winner of the lot shall be  
31 deemed to have been elected.

32 SECTION 475. IC 33-2.1-4-4 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. ~~Notification.~~  
34 After the attorney commissioners have been elected, and after the  
35 names of the non-attorney commissioners appointed by the governor  
36 have been certified, ~~to the Secretary of State as this article so provides,~~  
37 the clerk shall by regular mail, notify the members of the commission  
38 of their election or appointment.

39 SECTION 476. IC 33-5-5.1-32.1 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 32.1. (a) The  
41 governor shall appoint the three (3) nonattorney members of the  
42 commission.

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(b) One (1) month prior to the expiration of a term of office of a nonattorney commissioner, the governor shall either reappoint the commissioner or appoint a replacement. All appointments shall be certified to ~~the secretary of state~~; the clerk of the supreme court and the clerk of Allen superior court within ten (10) days after the appointment.

(c) After their initial terms, the governor shall appoint each nonattorney commissioner for a term of four (4) years.

(d) Whenever a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the governor in writing of that fact. Vacancies in the office of nonattorney commissioners shall be filled by appointment of the governor within sixty (60) days after he has notice of the vacancy. The nonattorney commissioner appointed shall serve during the unexpired term of the member whose vacancy he has filled.

SECTION 477. IC 33-5-5.1-35.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 35.1. After the attorney members of the commission have been elected, and after the names of the nonattorney commissioners appointed by the governor have been certified to ~~the secretary of state~~; the clerk of the supreme court, and the clerk of Allen superior court, the superior court clerk shall notify the members of the commission of their election or appointment.

SECTION 478. IC 33-5-29.5-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 30. (a) On or before September 15, 1995, the Lake County board of commissioners shall appoint the four (4) nonattorney members of the commission. The term of office for each of the commissioners shall commence October 1, 1995, and expires as follows:

(1) The term of the member appointed from the first district of the Lake County board of commissioners expires September 30, 1996.

(2) The term of the member appointed from the second district expires September 30, 1997.

(3) The term of the member appointed from the third district expires September 30, 1998.

(4) The term of the member appointed by the majority vote of the Lake County board of commissioners expires September 30, 1999.

(b) One (1) month prior to the expiration of a term of office of a nonattorney commissioner, an appointment or reappointment shall be made in accordance with section 29 of this chapter. All appointments made by the Lake County board of commissioners shall be certified to

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1 ~~the secretary of state~~, the clerk of the supreme court, and the clerk of  
2 Lake circuit court within ten (10) days of the appointment.

3 (c) Except as provided in subsection (a), each nonattorney member  
4 shall be appointed for a term of four (4) years.

5 (d) Whenever a vacancy occurs in the office of a nonattorney  
6 commissioner, the chairman of the commission shall promptly notify  
7 the Lake County board of commissioners in writing of such fact.  
8 Vacancies in the office of nonattorney commissioners shall be filled by  
9 appointment of the Lake County board of commissioners within sixty  
10 (60) days after notice of the vacancy is received. The term of the  
11 nonattorney commissioner so appointed shall be for the unexpired term  
12 of the member whose vacancy the new member has filled.

13 SECTION 479. IC 33-5-29.5-33 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 33. After the  
15 attorney members of the commission have been elected, and after the  
16 names of the non-attorney commissioners appointed by the governor  
17 have been certified to the ~~secretary of state~~, clerk of the supreme court,  
18 and clerk of the Lake circuit court as this chapter so provides, the clerk  
19 of the Lake circuit court shall by regular mail notify the members of the  
20 commission of their election or appointment, and shall so notify the  
21 chairman of the judicial nominating commission of the same.

22 SECTION 480. IC 33-5-40-38 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 38. After the  
24 attorney members of the commission have been elected, and after the  
25 names of the non-attorney commissioners appointed by the selection  
26 committee have been certified to the ~~secretary of state~~, clerk of the  
27 supreme court, and the clerk of St. Joseph superior court under this  
28 chapter, the clerk of St. Joseph superior court shall by regular mail  
29 notify the members of the commission of their election or appointment,  
30 and shall so notify the chairman of the judicial nominating commission  
31 of the same.

32 SECTION 481. IC 34-9-1-1 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) Except as  
34 provided under subsection (c), a civil action may be prosecuted or  
35 defended by a party:

- 36 (1) in person; or
- 37 (2) represented by an attorney.

38 (b) If the state of Indiana is a party to a civil action filed on the small  
39 claims docket of a circuit court, superior court, or county court, the  
40 state of Indiana is not required to appear by attorney.

41 (c) A corporation and any organization required to make application  
42 to the ~~secretary of state~~ **department of financial institutions** under

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IC 25-11-1-3 must appear by attorney in all cases. However, corporations organized under:

- (1) IC 23-1;
- (2) IC 23-1.5;
- (3) IC 23-7-1.1 (before its repeal on August 1, 1991); or
- (4) IC 23-17;

are not required to appear by attorney in civil cases filed on a small claims docket of a circuit, superior, or county court.

SECTION 482. IC 34-30-2-89 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 89. IC 23-2-2.5-46 and IC 23-2-3.1-9 (Concerning the ~~secretary of state~~, commissioner and employees of the securities division of the ~~office of the secretary of state~~): **department of commerce**).

SECTION 483. IC 34-33-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) This chapter applies to:

- (1) a nonresident;
- (2) a resident of Indiana who becomes a nonresident; or
- (3) the authorized agent of a person described in subdivision (1) or (2);

who operates a motor vehicle upon a public street or highway or any other place in Indiana.

(b) The operation of a motor vehicle by a person described in subsection (a) is considered to be an appointment by the person of the ~~secretary of state~~ **attorney general** to be the person's attorney upon whom process may be served in any action or proceeding against the person arising from an accident or collision in which the person may be involved while operating or permitting to be operated a motor vehicle on a street or highway or any other place in Indiana.

(c) The operation is an agreement that process against the person has the same legal force and validity as if served upon the person personally.

(d) The appointment of the ~~secretary of state~~ **attorney general** is irrevocable and binding upon the executor or administrator of the person.

SECTION 484. IC 34-33-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. An action may be filed in the county :

- (1) where the plaintiff resides; or
- (2) where the accident or collision occurred;

at the election of the plaintiff. Service of process shall be made by leaving a copy of the action and a fee of five dollars (\$5) with the



1 ~~secretary of state~~ **attorney general** for the defendant to be served. The  
 2 service is sufficient service upon the person if notice of service and a  
 3 copy of the process are immediately sent by registered mail to the  
 4 defendant and the defendant's return receipt is appended to the original  
 5 process and filed in the court.

6 SECTION 485. IC 34-33-3-3 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. If a defendant  
 8 refuses to accept or claim registered mail, the ~~secretary of state~~  
 9 **attorney general** shall return the registered mail to the plaintiff or to  
 10 the plaintiff's attorney. The mail shall be appended to the original  
 11 process, together with an affidavit of the plaintiff or of the attorney or  
 12 agent that the summons was delivered to the ~~secretary of state~~;  
 13 **attorney general**, together with a fee of five dollars (\$5), and was  
 14 returned unclaimed by the United States Postal Service. The affidavit,  
 15 together with the returned envelope including the summons, is  
 16 considered sufficient service upon the defendant.

17 SECTION 486. IC 35-33-10-3 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (1) Where  
 19 appearing in this section, the term "governor" includes any person  
 20 performing the functions of governor by authority of the law of this  
 21 state. The term "executive authority" includes the governor and any  
 22 person performing the functions of governor in a state other than this  
 23 state. The term "state", referring to a state other than this state, refers  
 24 to any other state or territory, organized or unorganized, of the United  
 25 States of America.

26 (2) Subject to the qualifications of this section and the provisions of  
 27 the Constitution of the United States controlling, and acts of congress  
 28 in pursuance thereof, it is the duty of the governor of this state to have  
 29 arrested and delivered up to the executive authority of any other state  
 30 of the United States any person charged in that state with treason, a  
 31 felony, or other crime who has fled from justice and is found in this  
 32 state.

33 (3) No demand for the extradition of a person charged with crime in  
 34 another state shall be recognized by the governor unless in writing and  
 35 accompanied by a copy of an indictment found or by an information  
 36 supported by affidavit in the state having jurisdiction of the crime, or  
 37 by a copy of an affidavit made before a magistrate there, together with  
 38 a copy of any warrant which was issued thereon. The indictment,  
 39 information, or affidavit made before the magistrate must substantially  
 40 charge the person demanded with having committed a crime under the  
 41 law of that state; and the copy must be authenticated by the executive  
 42 authority making the demand, which shall be prima facie evidence of



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1 its truth.

2 (4) When a demand shall be made upon the governor of this state by  
3 the executive authority of another state for the surrender of a person so  
4 charged with crime, the governor may call upon the attorney general or  
5 any prosecuting officer in this state to investigate or assist in  
6 investigating the demand, and to report to him the situation and  
7 circumstances of the person so demanded, and whether he ought to be  
8 surrendered.

9 (5) A warrant of extradition shall not be issued unless the  
10 documents presented by the executive authority making the demand  
11 show that:

12 (a) except in cases arising under subsection (7) of this section, the  
13 accused was present in the demanding state at the time of the  
14 commission of the alleged crime, and thereafter fled from the  
15 state;

16 (b) the accused is now in this state; and

17 (c) he is lawfully charged by indictment found or by information  
18 filed by a prosecuting officer and supported by affidavit to the  
19 facts, or by affidavit made before a magistrate in that state, with  
20 having committed a crime under the laws of that state, or that he  
21 has been convicted of a crime in that state and has escaped from  
22 confinement or has broken the terms of his bail, probation, or  
23 parole, or that the sentence or some portion of it otherwise  
24 remains unexecuted and that the person claimed has not been  
25 discharged or otherwise released from the sentence.

26 (6) When it is desired to have returned to this state a person charged  
27 in this state with a crime, and such person is imprisoned or is held  
28 under criminal proceedings then pending against him in another state,  
29 the governor of this state may agree with the executive authority of  
30 such other state for the extradition of such person before the conclusion  
31 of such proceedings or his term of sentence in such other state, upon  
32 condition that such person be returned to such other state at the  
33 expense of this state as soon as the prosecution in this state is  
34 terminated. The governor of this state may also surrender on demand  
35 of the executive authority of any other state any person in this state who  
36 is charged in the manner provided in subsection (24) of this section  
37 with having violated the laws of the state whose executive authority is  
38 making the demand, even though such person left the demanding state  
39 involuntarily.

40 (7) The governor of this state may also surrender, on demand of the  
41 executive authority of any other state, any person in this state charged  
42 in such other state in the manner provided in subsection (5) of this

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1 section with committing an act in this state, or in a third state,  
2 intentionally resulting in a crime in the state whose executive authority  
3 is making the demand; and the provisions of this section not otherwise  
4 inconsistent shall apply to such cases, notwithstanding that the accused  
5 was not in that state at the time of the commission of the crime and has  
6 not fled therefrom.

7 (8) If the governor shall decide that the demand should be complied  
8 with, he shall sign a warrant of arrest, which shall be sealed with the  
9 state seal, and be directed to a sheriff, marshal, coroner, or other person  
10 whom he may think fit to entrust with the execution thereof; and the  
11 warrant must substantially recite the facts necessary to the validity of  
12 its issue.

13 (9) Such warrant shall authorize the officer or other person to whom  
14 directed to arrest the accused at any place where he may be found  
15 within the state, to command the aid of all sheriffs and law enforcement  
16 officers in the execution of the warrant, and to deliver the accused  
17 subject to the provision of this section, to the duly authorized agent of  
18 the demanding state.

19 (10) Every such officer or other person empowered to make the  
20 arrest shall have the same authority in arresting the accused to  
21 command assistance therein, as sheriffs and other officers have by law  
22 in the execution of any criminal process directed to them, with the like  
23 penalties against those who refuse their assistance.

24 (11) No person arrested upon such warrant shall be delivered over  
25 to the agent whom the executive authority demanding him shall have  
26 appointed to receive him unless he has been informed of the demand  
27 made for his surrender, of the crime with which he is charged and that  
28 he has the right to demand legal counsel; and if the prisoner, his  
29 friends, or counsel shall state that he or they desire to test the legality  
30 of the arrest, the prisoner shall be taken forthwith before a judge of a  
31 court of record in this state who shall fix a reasonable time to be  
32 allowed him within which to apply for a writ of habeas corpus. And  
33 when such writ is applied for, notice thereof, and of the time and place  
34 of hearing thereon, shall be given to the public prosecuting officer of  
35 the county in which the arrest is made and in which the accused is in  
36 custody and to the said agent of the demanding state.

37 (12) An officer who recklessly delivers to the agent for extradition  
38 of the demanding state a person in his custody under the governor's  
39 warrant in disobedience to subsection (11) of this section commits a  
40 Class B misdemeanor.

41 (13) The officer or person executing the governor's warrant of arrest,  
42 or the agent of the demanding state to whom the prisoner may have

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1 been delivered, may, when necessary, confine the prisoner in the jail of  
 2 any county or city through which he may pass; and the keeper of such  
 3 jail must receive and safely keep the prisoner until the person having  
 4 charge of him is ready to proceed on his route, such person being  
 5 chargeable with the expense of keeping.

6 (14) Whenever any person within this state shall be charged on the  
 7 oath of any credible person before any judge of this state with the  
 8 commission of a crime in any other state, and, except in cases arising  
 9 under subsection (7) of this section, with having fled from justice, or  
 10 whenever complaint shall have been made before any judge in this  
 11 state setting forth on the affidavit of any credible person in another  
 12 state that a treason or felony has been committed in such other state  
 13 and that the accused has been charged in such state with the  
 14 commission of the treason or felony, and, except in cases arising under  
 15 subsection (7) of this section, has fled therefrom and is believed to  
 16 have been found in this state, the judge shall issue a warrant directed  
 17 to the sheriff of the county in which the oath or complaint is filed  
 18 directing him to apprehend the person charged, wherever he may be  
 19 found in this state, and bring him before the same or any other judge,  
 20 who may be convenient of access to the place where the arrest may be  
 21 made, to answer the charge or complaint and affidavit. A certified copy  
 22 of the sworn charge or complaint and affidavit upon which the warrant  
 23 is issued shall be attached to the warrant.

24 (15) The arrest of a person may be lawfully made also by an officer  
 25 or a private citizen without a warrant upon reasonable information that  
 26 the accused stands charged in the courts of another state with a crime  
 27 punishable by death or imprisonment for a term exceeding one (1) year;  
 28 but when so arrested the accused must be taken before a judge with all  
 29 practicable speed, and complaint must be made against him under oath  
 30 setting forth the ground for the arrest as in the last preceding  
 31 subsection; and thereafter his answer shall be heard as if he has been  
 32 arrested on warrant.

33 (16) If from the examination before the judge, it appears that the  
 34 person held is the person charged with having committed the crime  
 35 alleged and that he probably committed the crime, and, except in cases  
 36 arising under subsection (7) of this section, that he has fled from  
 37 justice, the judge shall commit him to jail by a warrant reciting the  
 38 accusation for such time specified in the warrant as will enable the  
 39 arrest of the accused to be made under a warrant of the governor on a  
 40 requisition of the executive authority of the state having jurisdiction of  
 41 the offense, unless the accused gives bail as provided in subsection  
 42 (17) of this section, or until he shall be legally discharged.



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1 (17) Unless the offense with which the prisoner is charged is shown  
2 to be an offense punishable by death or life imprisonment under the  
3 laws of the state in which it was committed, the judge must admit the  
4 person arrested to bail by bond or undertaking, with sufficient sureties,  
5 and in such sum as he deems proper, for his appearance before him at  
6 a time specified in such bond or undertaking, and for his surrender, to  
7 be arrested upon the warrant of the governor of this state. The prisoner  
8 shall not be admitted to bail after issuance of a warrant by the governor  
9 of this state.

10 (18) If the accused is not yet arrested under warrant of the governor  
11 by the expiration of the time specified in the warrant, bond, or  
12 undertaking, the judge may discharge him or may recommit him to a  
13 further day, or may again take bail for his appearance and surrender, as  
14 provided in subsection (17) of this section; and at the expiration of the  
15 second period of commitment, or if he has been bailed and appeared  
16 according to the terms of his bond or undertaking, the judge may either  
17 discharge him, or may require him to enter into a new bond or  
18 undertaking, to appear and surrender himself at another day.

19 (19) If the prisoner is admitted to bail and fails to appear and  
20 surrender himself according to the conditions of his bond, the court, by  
21 proper order, shall declare the bond forfeited; and recovery may be had  
22 thereon in the name of the state as in the case of other bonds or  
23 undertakings given by the accused in criminal proceedings within this  
24 state.

25 (20) If a criminal prosecution has been instituted against such  
26 person under the laws of this state and is still pending, the governor at  
27 his discretion either may surrender him on the demand of the executive  
28 authority of another state or may hold him until he has been tried and  
29 discharged, or convicted and punished in this state.

30 (21) The guilt or innocence of the accused as to the crime of which  
31 he is charged may not be inquired into by the governor or in any  
32 proceedings after the demand for extradition accompanied by a charge  
33 of crime in legal form as above provided shall have been presented to  
34 the governor, except as it may be involved in identifying the person  
35 held as the person charged with the crime.

36 (22) The governor may recall his warrant of arrest or may issue  
37 another warrant whenever he deems proper.

38 (23) Whenever the governor of this state shall demand a person  
39 charged with a crime in this state from the chief executive of any other  
40 state or from the chief justice or an associate justice of the Supreme  
41 Court of the District of Columbia authorized to receive such demand  
42 under the laws of the United States, he shall issue a warrant under the

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1 seal of this state to some agent commanding him to receive the person  
2 so charged if delivered to him and convey him to the proper officer of  
3 the county in this state in which the offense was committed.

4 (24) When the return to this state of a person charged with a crime  
5 in this state is required, the prosecuting attorney of the county in which  
6 the offense is committed shall present to the governor his written  
7 application for a requisition for the return of the person charged, in  
8 which application shall be stated the name of the person so charged, the  
9 crime charged against him, the approximate time, place, and  
10 circumstances of its committal, the state in which he is believed to be,  
11 including the location of the accused therein at the time the application  
12 is made, and certifying that in the opinion of the said prosecuting  
13 attorney the ends of justice require the arrest and return of the accused  
14 to this state for trial, and that the proceeding is not instituted to enforce  
15 a private claim. The application shall be verified by affidavit, shall be  
16 executed in triplicate, and shall be accompanied by three (3) certified  
17 copies of the indictment returned, or information and affidavit filed, or  
18 of the complaint made to the magistrate, stating the offense with which  
19 the accused is charged. The prosecuting attorney may also attach such  
20 further affidavits and other documents in triplicate as he shall deem  
21 proper to be submitted with such application. One (1) copy of the  
22 application with the action of the governor indicated by the  
23 endorsement thereon and one (1) of the certified copies of the  
24 indictment or complaint or information and affidavit shall be filed in  
25 the office of the ~~secretary of state~~ **attorney general** to remain of record  
26 in that office. The other copies of all papers shall be forwarded with the  
27 governor's requisition.

28 (25) The expenses shall be paid out of the general fund of the  
29 county treasury of the county wherein the crime is alleged to have been  
30 committed. The expenses shall be the fees paid to the officers of the  
31 state on whose governor the requisition is made, as now provided by  
32 law, for all necessary travel in returning such prisoner.

33 (26) A person brought into this state on extradition based on a  
34 criminal charge shall not be subject to service of personal process in  
35 civil actions arising out of the same facts as the criminal proceeding to  
36 answer for which he is returned until he has been convicted in the  
37 criminal proceeding, or if acquitted, until he has had ample opportunity  
38 to return to the state from which he was extradited.

39 (27) After a person has been brought back to this state upon  
40 extradition proceedings, he may be tried in this state for other crimes  
41 which he may be charged with having committed here, as well as that  
42 specified in the requisition for his extradition.



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(28) This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(29) Nothing in this section contained shall be deemed to constitute a waiver by the state of its right, power, or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for any crime committed within this state, nor shall any proceedings had under this section which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges, or jurisdiction in any way whatsoever.

(30) This section may be cited as the Uniform Criminal Extradition Act.

SECTION 487. IC 36-1-9.5-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 36. (a) The initial statement submitted by a corporation must be accompanied by a certified copy of the following:

(1) The minutes covering the election of current officers.

(2) The current authority for individuals' personal signatures to contracts of the corporation, which may be:

(A) a part of the corporation's original articles of incorporation; or

(B) a subsequent official action of the stockholders or the board of directors of the corporation.

(b) If personnel or authority for individuals' personal signatures are changed in any manner, the contractor shall immediately notify the prequalification administrator and furnish the prequalification administrator with certified copies of appropriate documents.

(c) The initial statement of a foreign corporation must be accompanied by:

(1) valid evidence that the corporation is registered and in good standing with the ~~secretary of state~~ **department of commerce** to do business in Indiana; or

(2) a letter stating that, if the corporation becomes the successful bidder on a contract, authorization will be secured by the corporation not later than fifteen (15) days after the bid opening.

SECTION 488. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 4-5-1-10; IC 5-7-1-1.

SECTION 489. [EFFECTIVE JULY 1, 1999] (a) **As used in this SECTION, "commission" refers to the Indiana election commission established by IC 3-6-4.1-1.**

(b) **As used in this SECTION, "election division" refers to the election division established by IC 3-6-4.2-1.**



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1 (c) As used in this SECTION, "Indiana election laws" refer to  
 2 IC 3, as amended by this act, and any other statutes relating to  
 3 elections, as amended by this act.

4 (d) On January 1, 2000, all the powers, duties, functions,  
 5 appropriations, property, records, contractual rights, and  
 6 obligations of the secretary of state in existence on December 31,  
 7 1999, and relating to administration of Indiana election laws are  
 8 transferred to the commission or the election division, as  
 9 appropriate under Indiana election laws.

10 (e) After December 31, 1999, all rules of the secretary of state  
 11 relating to the administration of Indiana election laws in effect on  
 12 December 31, 1999, are considered rules of the commission until  
 13 the commission amends or repeals those rules under IC 4-22-2.

14 (f) After December 31, 1999, any reference to the secretary of  
 15 state in any statute, rule, or other legal document relating to the  
 16 administration of Indiana election laws is considered as a reference  
 17 to the commission or the election division, as appropriate, under  
 18 Indiana election laws.

19 (g) A document properly filed with the secretary of state under  
 20 Indiana election laws before January 1, 2000, is considered, after  
 21 December 31, 1999, to have been properly filed with the  
 22 commission or the election division, as appropriate, under Indiana  
 23 election laws.

24 (h) This SECTION expires January 1, 2002.

25 SECTION 490. [EFFECTIVE JULY 1, 1999] (a) As used in this  
 26 SECTION, "department" refers to the department of commerce  
 27 created by IC 4-3-2-2.

28 (b) On January 1, 2000, all the powers, duties, functions,  
 29 appropriations, property, records, contractual rights, and  
 30 obligations of the secretary of state in existence on December 31,  
 31 1999, and relating to administration of IC 4-5-10, as amended by  
 32 this act, are transferred to the department.

33 (c) After December 31, 1999, any reference to the secretary of  
 34 state in any statute, rule, or other legal document relating to the  
 35 administration of IC 4-5-10, as amended by this act, is considered  
 36 as a reference to the department.

37 (d) This SECTION expires January 1, 2002.

38 SECTION 491. [EFFECTIVE JULY 1, 1999] (a) On January 1,  
 39 2000, all the powers, duties, functions, appropriations, property,  
 40 records, contractual rights, and obligations of the secretary of state  
 41 in existence on December 31, 1999, and relating to administration  
 42 of IC 9-30-2, as amended by this act, are transferred to the

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1 attorney general.

2 (b) After December 31, 1999, any reference to the secretary of  
3 state in any statute, rule, or other legal document relating to the  
4 secretary of state's functions under IC 9-30-2 before January 1,  
5 2000, is considered as a reference to the attorney general.

6 (c) This SECTION expires January 1, 2002.

7 SECTION 492. [EFFECTIVE JULY 1, 1999] (a) As used in this  
8 SECTION, "department" refers to the department of commerce  
9 established by IC 4-3-2-2.

10 (b) As used in this SECTION, "Indiana business organization  
11 laws" include the following:

12 (1) IC 23-1, as amended by this act.

13 (2) IC 23-1.5, as amended by this act.

14 (3) IC 23-4, as amended by this act.

15 (4) IC 23-5, as amended by this act.

16 (5) IC 23-6-4, as amended by this act.

17 (6) IC 23-15, as amended by this act.

18 (7) IC 23-16, as amended by this act.

19 (8) IC 23-17, as amended by this act.

20 (9) IC 23-18, as amended by this act.

21 (10) IC 24-2-1, as amended by this act.

22 (11) Any other statute to the extent the statute:

23 (A) relates to the formalities of the formation, existence, or  
24 dissolution of a business entity conducting business in  
25 Indiana; and

26 (B) does not otherwise specifically assign the function to  
27 another governmental entity.

28 (c) On January 1, 2000, all the powers, duties, functions,  
29 appropriations, property, records, contractual rights, and  
30 obligations of the secretary of state in existence on December 31,  
31 1999, and relating to the administration of Indiana business  
32 organization laws are transferred to the department.

33 (d) After December 31, 1999, all rules of the secretary of state  
34 relating to the administration of Indiana business organization  
35 laws in effect on December 31, 1999, are considered rules of the  
36 department until the department amends or repeals those rules  
37 under IC 4-22-2.

38 (e) After December 31, 1999, any reference to the secretary of  
39 state in any statute, rule, or other legal document relating to the  
40 administration of Indiana business organization laws is considered  
41 as a reference to the department.

42 (f) A document properly filed with the secretary of state under



1 Indiana business organization laws before January 1, 2000, is  
 2 considered, after December 31, 1999, to have been properly filed  
 3 with the department under Indiana business organization laws.

4 (g) This SECTION expires January 1, 2002.

5 SECTION 493. [EFFECTIVE JULY 1, 1999] (a) As used in this  
 6 SECTION, "department" refers to the department of financial  
 7 institutions established by IC 28-11-1-1.

8 (b) As used in this SECTION, "Indiana securities regulation  
 9 laws" refers to IC 23-2, as amended by this act.

10 (c) On January 1, 2000, all the powers, duties, functions,  
 11 appropriations, property, records, contractual rights, and  
 12 obligations of the secretary of state in existence on December 31,  
 13 1999, and relating to administration of Indiana securities  
 14 regulation laws are transferred to the department.

15 (d) After December 31, 1999, all rules of the secretary of state  
 16 relating to the administration of Indiana securities regulation laws  
 17 in effect on December 31, 1999, are considered rules of the  
 18 department until the department amends or repeals those rules  
 19 under IC 4-22-2.

20 (e) After December 31, 1999, any reference to the secretary of  
 21 state in any statute, rule, or other legal document relating to the  
 22 administration of Indiana securities regulation laws is considered  
 23 a reference to the department.

24 (f) A document properly filed with the secretary of state under  
 25 Indiana business securities regulation laws before January 1, 2000,  
 26 is considered, after December 31, 1999, to have been properly filed  
 27 with the department under Indiana securities regulation laws.

28 (g) This SECTION expires January 1, 2002.

29 SECTION 494. [EFFECTIVE JULY 1, 1999] (a) As used in this  
 30 SECTION, "department" refers to the department of financial  
 31 institutions established by IC 28-11-1-1.

32 (b) On January 1, 2000, all the powers, duties, functions,  
 33 appropriations, property, records, contractual rights, and  
 34 obligations of the secretary of state in existence on December 31,  
 35 1999, and relating to administration of IC 25-11-1 (relating to  
 36 collection agencies) are transferred to the department.

37 (c) After December 31, 1999, all rules of the secretary of state  
 38 relating to the administration of IC 25-11-1 in effect on December  
 39 31, 1999, are considered rules of the department until the  
 40 department amends or repeals those rules under IC 4-22-2.

41 (d) After December 31, 1999, any reference to the secretary of  
 42 state in any statute, rule, or other legal document relating to the



1 administration of IC 25-11-1 is considered as a reference to the  
2 department.

3 (e) A document properly filed with the secretary of state under  
4 IC 25-11-1 before January 1, 2000, is considered, after December  
5 31, 1999, to have been properly filed with the department under  
6 IC 25-11-1.

7 (f) This SECTION expires January 1, 2002.

8 SECTION 495. [EFFECTIVE JULY 1, 1999] (a) As used in this  
9 SECTION, "department" refers to the department of financial  
10 institutions established by IC 28-11-1-1.

11 (b) On January 1, 2000, all the powers, duties, functions,  
12 appropriations, property, records, contractual rights, and  
13 obligations of the secretary of state in existence on December 31,  
14 1999, and relating to administration of IC 26-1 (the uniform  
15 commercial code) are transferred to the department.

16 (c) After December 31, 1999, all rules of the secretary of state  
17 relating to the administration of IC 26-1 in effect on December 31,  
18 1999, are considered rules of the department until the department  
19 amends or repeals those rules under IC 4-22-2.

20 (d) After December 31, 1999, any reference to the secretary of  
21 state in any statute, rule, or other legal document relating to the  
22 administration of IC 26-1 is considered as a reference to the  
23 department.

24 (e) A document properly filed with the secretary of state under  
25 IC 26-1 before January 1, 2000, is considered, after December 31,  
26 1999, to have been properly filed with the department under  
27 IC 26-1.

28 (f) This SECTION expires January 1, 2002.

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